

Exhibit 2

In the Matter of:

Mark Hale, et al.

vs.

State Farm, et al.

Thomas A. Myers, CPA

October 19, 2017



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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

Civil Action No. 3:12-cv-006600-DRH-SCW

DEPOSITION OF: THOMAS A. MYERS, CPA
October 19, 2017

MARK HALE, TODD SHADLE and LAURIE LOGER, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, ED
MURNANE and WILLIAM G. SHEPHERD,

Defendants.

PURSUANT TO NOTICE, the deposition of
THOMAS A. MYERS, CPA, was taken on behalf of the
Defendant State Farm Mutual Automobile Insurance
Company at 1125 17th Street, Suite 2100, Denver,
Colorado 80202, on October 19, 2017, at 10:03 a.m.,
before Teresa Coogle, Registered Professional
Reporter, Certified Realtime Reporter, and Notary
Public within Colorado.

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<p>1 APPEARANCES</p> <p>2 For the Plaintiffs:</p> <p>3 ROBERT A. CLIFFORD, ESQ.</p> <p>4 BRADLEY M. COSGROVE, ESQ.</p> <p>5 KRISTOFER S. RIDDLE, ESQ.</p> <p>6 Clifford Law Offices</p> <p>7 120 North LaSalle Street, 31st Floor</p> <p>8 Chicago, Illinois 60602</p> <p>9 RICHARD R. BARRETT, ESQ.</p> <p>10 Barrett Law Group, P.A.</p> <p>11 2086 Old Taylor Road, Suite 1011</p> <p>12 Oxford, Mississippi 38655</p> <p>13 PATRICK W. PENDLEY, ESQ.</p> <p>14 Pendley Baudin & Coffin</p> <p>15 Post Office Draw 61</p> <p>16 24119 Eden Street</p> <p>17 Plaquemine, Louisiana 70765</p> <p>18 THOMAS P. THRASH, ESQ.</p> <p>19 1101 Garland Street</p> <p>20 Little Rock Arkansas 72201</p> <p>21 (Appearing telephonically)</p> <p>22 For the Defendant State Farm Mutual Automobile</p> <p>23 Insurance Company:</p> <p>24 RONALD S. SAFER, ESQ.</p> <p>25 JOSEPH A. CANCELA, JR., ESQ.</p> <p>PATRICIA MATHY, ESQ.</p> <p>Riley Safer Holmes & Cancela, L.L.P.</p> <p>Three First National Plaza</p> <p>70 W. Madison Street, Suite 2900</p> <p>Chicago, Illinois 60602</p> <p>(Ms. Mathy appearing telephonically)</p> <p>For the Defendant Ed Murnane:</p> <p>ANDREW CHINSKEY, ESQ.</p> <p>SIDLEY AUSTIN, L.L.P.</p> <p>Hines-One South Dearborn Cp</p> <p>1 S Dearborn Street</p> <p>Chicago, Illinois 60603</p> <p>(Appearing telephonically)</p>	<p>1 INDEX</p> <p>2 EXAMINATION OF THOMAS A. MYERS, CPA: PAGE</p> <p>3 October 19, 2017</p> <p>4 By Mr. Safer 7</p> <p>5 By Mr. Clifford 138</p> <p>6 INITIAL</p> <p>7 DEPOSITION EXHIBITS: REFERENCE</p> <p>8 Exhibit 11 Supplement Expert Report of 27</p> <p>9 Thomas A. Myers</p> <p>10 Exhibit 12 Supreme Court Of Illinois 77</p> <p>11 Order</p> <p>12 Exhibit 13 Plaintiffs-Appellees' 77</p> <p>13 Memorandum In Support Of Motion</p> <p>14 For Recusal Or Disqualification</p>
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<p>1 For the Defendant William G. Shepherd:</p> <p>2 MEGHA SHAH, ESQ.</p> <p>3 Greensfelder, Hemker & Gale, P.C.</p> <p>4 10 South Broadway, Suite 2000</p> <p>5 St. Louis, Missouri 63102</p> <p>6 Also Present:</p> <p>7 Bruce Dubinsky</p> <p>8 Jerry DeBoer, Videographer</p>	<p>1 WHEREUPON, the following proceedings were</p> <p>2 taken pursuant to the Federal Rules of Civil</p> <p>3 Procedure.</p> <p>4 * * * * *</p> <p>5 THE VIDEOGRAPHER: Here begins videotape</p> <p>6 No. 1 in the deposition of Thomas Arthur Myers, CPA,</p> <p>7 in the matter of Mark Hale, et al., versus State Farm</p> <p>8 Mutual Automobile Insurance Company, et al., in the</p> <p>9 United States District Court Southern District of</p> <p>10 Illinois, Case No. 3:12-cv-00660-DRH-SCW.</p> <p>11 Today's date is October 19, 2017, and the</p> <p>12 time on the monitor is 10:04 a.m. The video operator</p> <p>13 today is Jerry DeBoer. This video deposition is</p> <p>14 taking place at Sweetbaum Sands Anderson located at</p> <p>15 1125 17th Street, Suite 2100, Denver, Colorado.</p> <p>16 Counsel, please voice identify yourselves</p> <p>17 and state who you represent.</p> <p>18 MR. CLIFFORD: Robert Clifford on behalf</p> <p>19 of the Hale plaintiffs.</p> <p>20 MR. COSGROVE: Brad Cosgrove on behalf of</p> <p>21 plaintiff.</p> <p>22 MR. RIDDLE: Kris Riddle on behalf of the</p> <p>23 plaintiff.</p> <p>24 MR. BARRETT: Richard Barrett on behalf</p> <p>25 of the plaintiffs.</p>

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<p style="text-align: right;">Page 6</p> <p>1 MR. PENDLEY: Patrick Pendley on behalf 2 of the plaintiffs. 3 MS. SHAH: Megha Shah on behalf of the 4 Defendant William Shepherd. 5 MR. CANCELA: Joe Cancela on behalf of 6 Defendant State Farm. 7 MR. SAFER: Ron Safer on behalf of State 8 Farm. And with us is Bruce Dubinsky from Duff & 9 Phelps. 10 THE VIDEOGRAPHER: The court reporter is 11 Teresa -- oh, excuse me. Counsel on the phone? 12 MR. CHINSKY: Andrew Chinsky on behalf of 13 Edward Murnane. 14 MR. THRASH: Tom Thrash on behalf of the 15 plaintiff. 16 MS. MATHY: Patricia Mathy for State 17 Farm. 18 THE VIDEOGRAPHER: The court reporter is 19 Teresa Coogole for DTI Chicago and will now swear in 20 the witness. 21 THOMAS A. MYERS, CPA, 22 having been first duly sworn to state the whole truth, 23 testified as follows: 24 (Deponent's Response: "I do.") 25 THE COURT REPORTER: Thanks.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. And in what respect? 2 A. Well, forensic accounting is a 3 combination of accounting and legal skills. And I 4 bring to the table the accounting skills by virtue of 5 my CPA and extensive experience in dealing with 6 matters relating to com -- complex financial fraud. 7 I've also had extensive experience with 8 complex litigation matters. And that's basically what 9 I bring to the table in terms of my credentials. I 10 mean, we can expand on that. I have had numerous 11 publications. I've chaired 13 conferences for the 12 industry and the regulators on problem loan situations 13 that involve accounting and legal analysis. 14 Q. What do you mean by you weren't engaged 15 as a forensic accountant? 16 A. Well, typically, if I were engaged as a 17 CPA, I would be -- that would be the -- the only 18 exercise -- or expertise that would be germane. But I 19 have many other credentials besides just being a CPA. 20 Q. Okay. So you were bound by no 21 professional standards in performing your analysis in 22 this case? 23 A. That's not true. There are -- there are 24 standards for CPAs. 25 Q. Okay. And what -- are you familiar with</p>
<p style="text-align: right;">Page 7</p> <p>1 THE DEPONENT: You're welcome. 2 EXAMINATION 3 BY MR. SAFER: 4 Q. Mr. Myers, you are a forensic accountant? 5 A. Yes. 6 Q. Were you bound by any professional 7 standards in performing your analysis in this case? 8 A. No. It's incidental that I'm a forensic 9 accountant. I wasn't engaged to do that. I was 10 engaged as an expert witness. 11 Q. As an expert witness in what? 12 A. To testify about the facts in this 13 matter. 14 Q. And what is your expertise? 15 A. I have given you my curriculum vitae. 16 It's extensive. One of the things that I -- 17 credentials that I have is a CPA, certified public 18 accountant, but -- 19 Q. Did you testify -- have you prepared your 20 opinions in this case as a forensic accountant? 21 A. It's part of my credentialing, but not -- 22 I wasn't engaged as a forensic accountant. 23 Q. So did you use forensic accountant -- 24 accounting in performing your analyses in this case? 25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 the AICPA? 2 A. Yes. 3 Q. What is the AICPA? 4 A. American Institute of Certified Public 5 Accountants. 6 Q. Are you a member of good standing with 7 the AICPA? 8 A. Yes. 9 Q. Does the AICPA have a certification for 10 forensic accountants? 11 A. Yes. 12 Q. And what is that -- 13 A. I'm not sure what the designation is. 14 Q. Is it certified in financial forensics, 15 CFF? 16 A. It could be. 17 Q. Do you hold that certification? 18 A. No. 19 Q. Is there a generally accepted methodology 20 for forensic accounting? 21 A. I think that that's a general question 22 because forensic accounting can entail many, many 23 different types of analyses. So I'm -- I'm sorry. 24 Your question again, please. 25 Q. Is there a generally accepted methodology</p>

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<p>1 for forensic accounting?</p> <p>2 A. There's not a generally accepted</p> <p>3 methodology. There are -- there are guidelines in the</p> <p>4 industry with respect to -- to analysis of, for</p> <p>5 example, money laundering techniques, and things like</p> <p>6 that. But there's not a generally accepted</p> <p>7 methodology that encompasses or subsumes all of the</p> <p>8 different areas that a forensic analyst might be</p> <p>9 involved with.</p> <p>10 Q. You say "forensic analyst." Do you</p> <p>11 differentiate that from a forensic accountant?</p> <p>12 A. No, I mean a forensic accountant.</p> <p>13 Q. When you said that there were guidelines</p> <p>14 available, what guidelines were you referring to?</p> <p>15 A. For example, the FBI has an investigation</p> <p>16 manual that deals with money laundering processing and</p> <p>17 procedures. The U.S. Department of Justice had a</p> <p>18 criminal resource manual that deals with money</p> <p>19 laundering. The financial accounting task force has</p> <p>20 comprehensive recommendations with respect to</p> <p>21 disguised financial transactions and money laundering.</p> <p>22 Things of that nature.</p> <p>23 Q. Did you use any of those resources in</p> <p>24 performing your work in this case?</p> <p>25 A. I'm aware of those resources, but I</p>	<p>1 me what their code of ethics is, and I can tell you.</p> <p>2 Q. Do you follow their professional</p> <p>3 standards on work conducted in the field of fraud</p> <p>4 detection?</p> <p>5 A. I don't have any connection with the</p> <p>6 certified fraud examiners. I don't --</p> <p>7 Q. Are --</p> <p>8 A. I don't necessarily acknowledge that they</p> <p>9 are leaders in the industry in forensic accounting.</p> <p>10 They are fraud analysts, they are fraud examiners; but</p> <p>11 fraud transcends just forensic accounting and forensic</p> <p>12 accounting is a different subject matter than just</p> <p>13 fraud. It implies a higher degree of sophistication,</p> <p>14 in my view, than what the CFE designation provides.</p> <p>15 Q. How -- how does it provide a -- a greater</p> <p>16 degree of sophistication?</p> <p>17 A. Because you don't even have to have a</p> <p>18 college degree to be a CFE. I can have experience to</p> <p>19 qualify to get the certificate, and -- and I consider</p> <p>20 that to be -- I can't imagine how somebody could be</p> <p>21 considered to be a forensic accountant and not have a</p> <p>22 CPA or at least an accounting degree.</p> <p>23 Q. Is there --</p> <p>24 A. There are many different types of fraud.</p> <p>25 There's computer fraud, and so forth. We're talking</p>
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<p>1 didn't -- I didn't need to consult them to undertake</p> <p>2 the -- the -- what I did in this particular matter.</p> <p>3 Q. Are you familiar with the Association for</p> <p>4 Certified Fraud Examiners?</p> <p>5 A. Yes.</p> <p>6 Q. What is that?</p> <p>7 A. I think that's an organization</p> <p>8 established by Joe Wells, who was a co-lecturer with</p> <p>9 me many, many years ago. That's about all I know</p> <p>10 about it.</p> <p>11 Q. Is -- do you know that the Association</p> <p>12 for Certified Fraud Examiners is the world's largest</p> <p>13 anti-fraud organization?</p> <p>14 A. That wouldn't surprise me.</p> <p>15 Q. Are you familiar with the Certified Fraud</p> <p>16 Examiner certification?</p> <p>17 A. I'm familiar that there's a designation</p> <p>18 as a CFE, yes.</p> <p>19 Q. Do you hold that certification?</p> <p>20 A. No.</p> <p>21 Q. Do you follow their professional code of</p> <p>22 ethics?</p> <p>23 A. No.</p> <p>24 Q. Are you aware of their professional --</p> <p>25 A. I don't know what their -- I have -- show</p>	<p>1 about forensic accounting.</p> <p>2 Q. And what distinguishes forensic</p> <p>3 accounting from, say, computer fraud and other general</p> <p>4 types of fraud?</p> <p>5 A. Well, the other general types of fraud</p> <p>6 don't have anything to do with accounting.</p> <p>7 Q. You talked about money laundering, and</p> <p>8 you've mentioned money laundering in your report. Are</p> <p>9 you familiar with the association of certified</p> <p>10 anti-money laundering specialists?</p> <p>11 A. I'm familiar with a number of different</p> <p>12 outfits that profess to be anti-money laundering</p> <p>13 specialists.</p> <p>14 Q. Do you hold any certification in that</p> <p>15 field?</p> <p>16 A. No.</p> <p>17 Q. What accounting precepts did you apply in</p> <p>18 generating your conclusions in this report?</p> <p>19 A. For example, Financial Accounting</p> <p>20 Standards Concept No. 8 in dealing with substance over</p> <p>21 form was one of the ones that I used.</p> <p>22 Q. What other accounting precepts did you</p> <p>23 use?</p> <p>24 A. I would need to see the list of</p> <p>25 accounting precepts. I can't do that for you off the</p>

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<p style="text-align: right;">Page 14</p> <p>1 top of my head.</p> <p>2 Q. So as you sit there, the only accounting</p> <p>3 precepts that you can provide us with is No. 8?</p> <p>4 A. Yes.</p> <p>5 Q. What accounting precepts did you use to</p> <p>6 examine the contributions made by State Farm or any</p> <p>7 other entity to the United States Chamber of Commerce?</p> <p>8 A. I used the general methodology that's</p> <p>9 recommended and referred to by the FBI in their</p> <p>10 investigative manual on money laundering processes and</p> <p>11 procedures. The examination that I did or analysis of</p> <p>12 the record was consistent with the Justice</p> <p>13 Department's Criminal Resource Manual and also</p> <p>14 consistent with the Financial Accounting Task Force</p> <p>15 recommendations.</p> <p>16 Q. What accounting precepts did you use to</p> <p>17 examine the contributions made by State Farm or any</p> <p>18 other entity to the U.S. Chamber of Commerce?</p> <p>19 MR. CLIFFORD: Objection, asked and</p> <p>20 answered.</p> <p>21 A. You did ask me that before; but I, in</p> <p>22 particular, applied the substance over form concept in</p> <p>23 my analysis of the disguised financial transactions.</p> <p>24 Q. (BY MR. SAFER) You say "in particular."</p> <p>25 What other accounting precepts did you use to examine</p>	<p style="text-align: right;">Page 16</p> <p>1 undertaking my examination as -- like an audit, or</p> <p>2 something like that.</p> <p>3 Q. What do you mean by "substance versus</p> <p>4 form"?</p> <p>5 A. Well, a financial transaction can appear</p> <p>6 to be one thing when, in fact, in substance and in</p> <p>7 form, it looks like something -- for example, a</p> <p>8 contribution by State Farm to ATRA for \$50,000. But</p> <p>9 in form, it's really a contribution to the Citizens</p> <p>10 for Karneier campaign. So accountants have an</p> <p>11 obligation to reflect the substance of a transaction</p> <p>12 over the form.</p> <p>13 Q. And how do accountants determine the</p> <p>14 substance of a transaction as opposed to the form?</p> <p>15 A. It's experiential. It's based on</p> <p>16 judgment.</p> <p>17 Q. And is that judgment guided in any way by</p> <p>18 any accounting principles?</p> <p>19 A. It's guided by industry literature,</p> <p>20 accounting principles. It's covered by the whole body</p> <p>21 of accounting literature.</p> <p>22 Q. Well, what --</p> <p>23 A. Can I -- let me hear that question again,</p> <p>24 please. Please restate it.</p> <p>25 (The last question was read back as</p>
<p style="text-align: right;">Page 15</p> <p>1 the contributions made by State Farm or any other</p> <p>2 entity to the U.S. Chamber of Commerce?</p> <p>3 MR. CLIFFORD: Objection. Excuse me.</p> <p>4 Mr. Myers, you have to wait until any exchange between</p> <p>5 counsel is complete, okay? Objection, asked and</p> <p>6 answered for the third time.</p> <p>7 A. Oh, I -- I already answered that. And</p> <p>8 the answer is none.</p> <p>9 Q. (BY MR. SAFER) Okay.</p> <p>10 A. Or none -- my answer -- to be clear, you</p> <p>11 would need to lead -- list for me the financial -- the</p> <p>12 accounting precepts that you're referring to. If</p> <p>13 you've got a copy of those, I can tell you which ones</p> <p>14 were incorporated in my analysis. But I didn't</p> <p>15 consciously go through the GAAP literature and say,</p> <p>16 Oh, here I'm applying this particular pronouncement or</p> <p>17 this particular procedure. I didn't endeavor to</p> <p>18 analyze that.</p> <p>19 Q. Did you refer to GAAP at all in your</p> <p>20 reports?</p> <p>21 A. Not -- no, no.</p> <p>22 Q. Have you referred to any accounting</p> <p>23 precepts in your reports?</p> <p>24 A. No. And as I stated, I wasn't hired as a</p> <p>25 CPA. That's one of my credentials, but I wasn't</p>	<p style="text-align: right;">Page 17</p> <p>1 follows: "And is that judgment guided in any way by</p> <p>2 any accounting principles?"</p> <p>3 A. Which judgment?</p> <p>4 Q. (BY MR. SAFER) The judgment that you</p> <p>5 referred to in your previous answer when you said</p> <p>6 accountants use judgment to determine form over</p> <p>7 substance in a transaction.</p> <p>8 A. Well, I think it's a function of the</p> <p>9 training of the accountant and the experience of the</p> <p>10 accountant. In my particular situation, I have</p> <p>11 extensive experience that goes way beyond what a</p> <p>12 typical CPA would have with respect to</p> <p>13 substance-over-form transactions, disguised financial</p> <p>14 transactions, such as the one we're discussing in the</p> <p>15 a -- in the Avery -- in the State Farm litigation.</p> <p>16 Q. What accounting functions did you use to</p> <p>17 examine the expenditures made by the U.S. Chamber of</p> <p>18 Commerce?</p> <p>19 A. As I stated, I didn't undertake this</p> <p>20 examination as a CPA. In other words, it wasn't a --</p> <p>21 an examination that -- that I attempted to do in</p> <p>22 accordance with a particular CPA engagement. The fact</p> <p>23 that I'm a CPA is incidental. I mean, it connotes a</p> <p>24 certain amount of experience and expertise and</p> <p>25 accounting; but that isn't the sole basis of my</p>

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<p>1 expertise.</p> <p>2 The basis of my expertise is numerous</p> <p>3 publications, numerous lectures, the fact that I've</p> <p>4 chaired conferences on this subject. The fact that</p> <p>5 I've lectured the FBI on fraud, the fact that I've</p> <p>6 lectured the U. S. Department of Justice on fraud, the</p> <p>7 fact that I've lectured all -- and trained all of the</p> <p>8 banking regulators, Office of Comptroller of Currency,</p> <p>9 the FDIC, Office of Thrift Supervision, National</p> <p>10 Credit Association.</p> <p>11 So that experience, to me, goes way</p> <p>12 beyond what a typical CPA would have based on the --</p> <p>13 the standard qualifications. I wasn't doing this</p> <p>14 examination strictly as a CPA. I did bring my CPA</p> <p>15 expertise into bear, but the -- the real basis of my</p> <p>16 expertise is my extensive experience in the fraud</p> <p>17 arena in training professionals.</p> <p>18 When you talk about the CFE, I was</p> <p>19 already testifying in front of Congress about fraud on</p> <p>20 -- in the savings and loan industry. Before the CFE</p> <p>21 was even thought of, I was already an expert in fraud.</p> <p>22 MR. SAFER: I move to strike that answer</p> <p>23 as non-responsive.</p> <p>24 MR. CLIFFORD: To which we would object.</p> <p>25 Q. (BY MR. SAFER) Your question -- the</p>	<p>1 Department of Justice standards. These are esoteric</p> <p>2 areas.</p> <p>3 Q. (BY MR. SAFER) Did any of the analysis</p> <p>4 that you referred -- that you performed refer to and</p> <p>5 use accounting theory and accounting principles?</p> <p>6 A. I think that that's something that would</p> <p>7 really require a thoughtful response from me where I</p> <p>8 would have to go back and look at the accounting</p> <p>9 principles and theory and tell you exactly which ones</p> <p>10 were applied.</p> <p>11 Undoubtedly auditing, general --</p> <p>12 generally accepted auditing standards, and accounting</p> <p>13 theory comes in with substance-over-form concepts.</p> <p>14 Accounting practice and my knowledge of financial</p> <p>15 statement preparation and issues also comes into play,</p> <p>16 as well as business law.</p> <p>17 So there are a myriad instances. If you</p> <p>18 gave me -- if you allowed me to take the time to go</p> <p>19 through the accounting principles, the accounting</p> <p>20 theory, business law principles, and auditing</p> <p>21 principles, I could list many, many of those that</p> <p>22 could apply arguably with respect to my analysis.</p> <p>23 But I didn't -- I didn't say to myself I</p> <p>24 better consult the -- the AICPA guidance on this to</p> <p>25 see what I need to do when I'm analyzing a check that</p>
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<p>1 question was not about your expertise. The question</p> <p>2 was what accounting functions did you use to examine</p> <p>3 the expenditures made by the United States Commerce</p> <p>4 that you referred to in your report?</p> <p>5 MR. CLIFFORD: Objection, asked and</p> <p>6 answered.</p> <p>7 MR. COSGROVE: Further objection to your</p> <p>8 question, sir. You have a statement prior to your</p> <p>9 question which is improper in form and move to strike</p> <p>10 your statement prior to the question.</p> <p>11 A. As I've said --</p> <p>12 MR. CLIFFORD: You can answer the</p> <p>13 question.</p> <p>14 A. As I've said consistently, I wasn't</p> <p>15 engaged as an accountant, per se, for this matter. I</p> <p>16 was engaged for the full body of my experience.</p> <p>17 One of the credentials that I hold is a</p> <p>18 CPA. I have degrees in accounting and mathematics,</p> <p>19 but I have -- the reason I'm here as an expert in this</p> <p>20 matter isn't just because I'm a CPA. It goes way</p> <p>21 beyond that.</p> <p>22 And I didn't -- some of the analysis that</p> <p>23 I undertook didn't necessarily engage with accounting</p> <p>24 principles or accounting theory, per se; but I adopted</p> <p>25 more credence to the FBI standards, the U.S.</p>	<p>1 was made out to a particular party or something.</p> <p>2 Q. What generally accepted auditing</p> <p>3 standards did you apply in your analysis in this case?</p> <p>4 A. I just told you that I didn't consciously</p> <p>5 -- I didn't do this as an auditor, as an independent</p> <p>6 CPA auditor. I did it as -- in the context of a</p> <p>7 forensic analysis that transcends just -- just</p> <p>8 auditing skills or CPA issues.</p> <p>9 Q. What financial statement preparation</p> <p>10 knowledge did you use in your analysis?</p> <p>11 A. As I said to you, I would need to look at</p> <p>12 the guidelines, the universe of guidelines for</p> <p>13 auditing, accounting practice, accounting theory, and</p> <p>14 business law. And I could sit here all day and point</p> <p>15 out principles that were applied arguably, but not --</p> <p>16 but -- but I don't have time to do that now. If you</p> <p>17 want to give me some principles and ask me if they</p> <p>18 applied, I can tell you that.</p> <p>19 Q. Well, I'm asking you what principles did</p> <p>20 you apply as you sit there?</p> <p>21 MR. COSGROVE: Objection, form, asked and</p> <p>22 answered this might be the third time.</p> <p>23 A. I believe that's been asked and answered.</p> <p>24 Q. (BY MR. SAFER) I'm asking again.</p> <p>25 A. Well, let's -- can I get my previous</p>

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<p>1 answer back?</p> <p>2 MR. COSGROVE: Yes.</p> <p>3 (The last answer was read back as</p> <p>4 follows: "As I said to you, I would need to look at</p> <p>5 the guidelines, the universe of guidelines for</p> <p>6 auditing, accounting practice, accounting theory, and</p> <p>7 business law, and I could sit here all day and point</p> <p>8 out principles that were applied arguably, but I don't</p> <p>9 have time to do that now. If you want to give me some</p> <p>10 principles and ask me if they applied, I can tell you</p> <p>11 that.")</p> <p>12 A. In other words, that's a vague and</p> <p>13 ambiguous question, sir.</p> <p>14 Q. (BY MR. SAFER) So as you sit there, can</p> <p>15 you point to any generally accepted auditing principle</p> <p>16 or financial preparation principle that you used in</p> <p>17 your report?</p> <p>18 MR. CLIFFORD: Objection, asked and</p> <p>19 answered.</p> <p>20 A. As I sit here, no. If I were given time,</p> <p>21 I could give you plenty.</p> <p>22 Q. (BY MR. SAFER) Well, take all the time</p> <p>23 you need.</p> <p>24 A. I would need to have access to my</p> <p>25 research resources, and so forth. I can't do that</p>	<p>1 A. Tracing, to me, would connote if you're</p> <p>2 looking at a deposit, where did it come from, where</p> <p>3 did it originate from, something of that order.</p> <p>4 Q. So what steps would you take to trace</p> <p>5 money?</p> <p>6 MR. COSGROVE: Objection to the form of</p> <p>7 the question as vague and ambiguous.</p> <p>8 A. Exactly. What money? What are you</p> <p>9 talking about?</p> <p>10 Q. (BY MR. SAFER) Any money.</p> <p>11 A. What's the context? Any money?</p> <p>12 Q. Yeah.</p> <p>13 MR. COSGROVE: Same objection to the</p> <p>14 question, vague and ambiguous, no premise to the</p> <p>15 answer.</p> <p>16 THE DEPONENT: Can I have the question,</p> <p>17 back, please?</p> <p>18 MR. COSGROVE: What money?</p> <p>19 MR. CLIFFORD: She'll read the question,</p> <p>20 if you need the question.</p> <p>21 Q. (BY MR. SAFER) I'll give you a new</p> <p>22 question.</p> <p>23 MR. CLIFFORD: Thank you.</p> <p>24 Q. (BY MR. SAFER) What steps would you take</p> <p>25 to trace funds?</p>
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<p>1 here. If you have them for me, I'll be happy to take</p> <p>2 a look at it, if your consultant has them.</p> <p>3 Q. Are any financial auditing -- generally</p> <p>4 accepted auditing principles, generally accepted</p> <p>5 accounting principles or other accounting principles</p> <p>6 referred to in either of your reports?</p> <p>7 A. No.</p> <p>8 MR. COSGROVE: Objection to the compound</p> <p>9 nature of your question.</p> <p>10 THE DEPONENT: Sorry.</p> <p>11 A. No. No, sir.</p> <p>12 Q. (BY MR. SAFER) Did you examine the books</p> <p>13 and records of any of the organizations discussed in</p> <p>14 your report?</p> <p>15 A. Those were not available to me. The</p> <p>16 answer is no.</p> <p>17 Q. Did you examine the bank accounts of any</p> <p>18 organizations discussed in your report?</p> <p>19 A. Neither of those were available to me, so</p> <p>20 the answer is no.</p> <p>21 Q. You're familiar with the term tracing as</p> <p>22 it applies in forensic accounting?</p> <p>23 A. Sure. Why don't you explain to me what</p> <p>24 it means.</p> <p>25 Q. Well, what do you know it as?</p>	<p>1 A. In what context? Trace funds where?</p> <p>2 Q. Let's say from one organization to</p> <p>3 another. What --</p> <p>4 A. Okay. Now I do understand. Thank you</p> <p>5 for that clarification. For -- I can do this by way</p> <p>6 of an example. If State Farm, Ed Rust, made out a</p> <p>7 million-dollar check and -- and it's dated and it's</p> <p>8 made out to the Institute For Legal Reform, then I</p> <p>9 would consider that money to have gone from State Farm</p> <p>10 to the Institute Of Legal Reform.</p> <p>11 If I'm trying to understand what</p> <p>12 happened -- I was asked to analyze what money was</p> <p>13 contributed by State Farm to these affiliated</p> <p>14 organizations and how much money came out of those</p> <p>15 affiliated organizations ultimately into the Karmeier</p> <p>16 campaign. And I just watched -- for -- for example,</p> <p>17 with that transaction, I saw the million-dollar check</p> <p>18 go from Ed Rust, for example, on May 30, 2003, to the</p> <p>19 ILR. And then I saw later a check -- or I didn't see</p> <p>20 the check, but I saw a receipt from the Illinois</p> <p>21 Republican Party on their D-2 that's formed -- that's</p> <p>22 filed in California for a receipt of something like</p> <p>23 \$1.95 million. And that's what -- if that's what you</p> <p>24 mean by "tracing," that's what I did.</p> <p>25 Q. Do -- do you consider that tracing of</p>

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<p>1 funds?</p> <p>2 A. Sure, in the context of what I was doing.</p> <p>3 Q. And --</p> <p>4 A. Since you haven't given me a specific</p> <p>5 context, you just said tracing money; so --</p> <p>6 Q. When you say the receipt that you saw for</p> <p>7 the money coming out of the United States Chamber to</p> <p>8 the Illinois Republican Party, when was that receipt?</p> <p>9 A. I don't recall the date, but it would</p> <p>10 have been in 2004.</p> <p>11 Q. September of 2004?</p> <p>12 A. Could be.</p> <p>13 Q. And so you -- is it your testimony that</p> <p>14 you have traced the check that State Farm wrote in May</p> <p>15 of 2003 to ILR to the money that the chamber then</p> <p>16 wrote a year and a half later to the Illinois</p> <p>17 Republican Party?</p> <p>18 A. I'm making a connection between that,</p> <p>19 yes. I don't -- I don't know if I would call that</p> <p>20 tracing it. I'm pointing out that the money that went</p> <p>21 into these affiliated organizations was approximately</p> <p>22 equal to the money that came out of those</p> <p>23 organizations into the -- into the Karmeier campaign.</p> <p>24 Q. And the question is would you regard that</p> <p>25 as tracing money?</p>	<p>1 know.</p> <p>2 Q. What does that mean, to a reasonable</p> <p>3 degree of professional certainty in the field of</p> <p>4 forensic accounting?</p> <p>5 A. In other words, a peer analyst, I</p> <p>6 believe, would come to the same conclusion or find my</p> <p>7 conclusion reasonable. Let -- may I explain what --</p> <p>8 what I did in this particular?</p> <p>9 MR. CLIFFORD: Well, answer his pending</p> <p>10 question, and then he'll ask you another question.</p> <p>11 THE DEPONENT: Okay.</p> <p>12 A. I would like to explain the process that</p> <p>13 I undertook in doing my analysis, if you're</p> <p>14 interested.</p> <p>15 Q. (BY MR. SAFER) Okay. Can you -- can you</p> <p>16 first answer the question?</p> <p>17 A. Okay. What was the question again,</p> <p>18 please? I'm sorry.</p> <p>19 (The last question was read back as</p> <p>20 follows: "What does that mean, to a reasonable degree</p> <p>21 of professional certainty in the field of forensic</p> <p>22 accounting?")</p> <p>23 A. And I answered that.</p> <p>24 Q. Okay. You've completed your answer to</p> <p>25 that?</p>
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<p>1 MR. CLIFFORD: Objection, asked and</p> <p>2 answered. He just answer --</p> <p>3 A. I attach no particular significance to</p> <p>4 the term tracing.</p> <p>5 Q. (BY MR. SAFER) You added language in --</p> <p>6 in this report, your supplemental expert report, that</p> <p>7 your opinions have been reached based on a reasonable</p> <p>8 degree of professional certainty in the field of</p> <p>9 forensic accounting.</p> <p>10 A. Can I --</p> <p>11 Q. Do you recall that?</p> <p>12 A. Can I see that?</p> <p>13 Q. Sure.</p> <p>14 (Deposition Exhibit 11 was marked.)</p> <p>15 A. What page was that, sir?</p> <p>16 Q. It's on page 85.</p> <p>17 MR. COSGROVE: There's one extra.</p> <p>18 A. Yes.</p> <p>19 Q. (BY MR. SAFER) Was it your idea to put</p> <p>20 that in your supplemental report?</p> <p>21 A. No, it's something that typically goes</p> <p>22 into an expert report that I would prepare.</p> <p>23 Q. You did not include that in your original</p> <p>24 report in this case, did you?</p> <p>25 A. I'm not sure; but if I didn't -- I don't</p>	<p>1 A. Yes.</p> <p>2 Q. Okay.</p> <p>3 A. Oh.</p> <p>4 Q. You wanted to explain what you did in</p> <p>5 this -- in this analysis. Could you --</p> <p>6 MR. CLIFFORD: And I'm instructing you to</p> <p>7 answer questions. If there's a pending question, such</p> <p>8 as he just described, that's fine. But there is no</p> <p>9 pending question, so please await a question.</p> <p>10 THE DEPONENT: Okay.</p> <p>11 Q. (BY MR. SAFER) So you wanted to explain</p> <p>12 what you've done in this case; is that right?</p> <p>13 A. Yeah.</p> <p>14 MR. CLIFFORD: Objection. Is there -- is</p> <p>15 there a question, Counsel?</p> <p>16 MR. SAFER: Yeah.</p> <p>17 MR. CLIFFORD: What is the question?</p> <p>18 What is the question?</p> <p>19 MR. SAFER: Do you want to read it back?</p> <p>20 (The last question was read back as</p> <p>21 follows:</p> <p>22 Question: "So you wanted to explain what</p> <p>23 you've done in this case; is that right?"</p> <p>24 Answer: "Yeah.")</p> <p>25 MR. CLIFFORD: If you can answer --</p>

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<p>1 objection, form, argumentative. Go ahead, if you have 2 an answer --</p> <p>3 THE DEPONENT: Sure.</p> <p>4 MR. CLIFFORD: -- to that question.</p> <p>5 A. I -- what I did is based on all of my 6 experience in the arena dealing with these things, 7 lecturing, publishing books on the subject, and so 8 forth. To me, it's like a jigsaw puzzle. I have 9 information that's provided to me, various bits and 10 myriad sources of information. And I try to put the 11 jigsaw puzzle together.</p> <p>12 A jigsaw puzzle typically has about 1,026 13 pieces, and it's 3 feet by 2 feet. And so, for 14 example -- and so, for example, if we had, let's say, 15 an aerial view of Washington, D.C. for a jigsaw 16 puzzle, I would take pieces of information, I would 17 evaluate that information and analyze them based on my 18 -- the information based on my experience, which 19 includes experience as a CPA and accounting experience 20 and auditing experience, and so forth, and I would say 21 this is where this piece goes.</p> <p>22 I don't need to see all 1,026 pieces of 23 information in order to determine that this is an 24 aerial view of Washington, D.C., taken from the 25 Washington Monument. I may be able to come to that</p>	<p>1 based on my experience, I'm telling you that I'm 2 certain --</p> <p>3 (Cell phone.)</p> <p>4 A. Excuse me. I'm telling you that I am -- 5 based on all of my -- totality of my experience, this 6 is -- I feel sure, certain of my -- my conclusions.</p> <p>7 Q. Would -- the question was about the field 8 of forensic accounting.</p> <p>9 A. Um-hum.</p> <p>10 Q. Is there any resource that you know of, 11 written resource you know of, that would define 12 reasonable degree of professional certainty in the 13 field of forensic accounting?</p> <p>14 A. I have tried to explain to you my 15 interpretation of that, but I don't -- I couldn't 16 quote for you if there is a standard or an 17 acknowledged -- what -- who -- which standard are you 18 talking about? CFE, did you say?</p> <p>19 Q. No, no. A reason --</p> <p>20 A. Forensic accounting standard?</p> <p>21 Q. A -- the question is is there a resource 22 that describes what a reasonable degree of 23 professional certainty in the field of forensic 24 accounting is?</p> <p>25 A. I'm not aware of that, no.</p>
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<p>1 conclusion by looking at the capitol building or the 2 Grand Mall. I can tell there's no other place in the 3 world that has this configuration of buildings. And 4 that's kind of what it's like to do this forensic 5 analysis that I undertook.</p> <p>6 There's much -- many, many, different 7 pieces of information. And I sift through them and 8 analyze them in the context of my total experience, 9 not just as a CPA as an auditor or as a financial 10 analyst, but also experience in working on government 11 investigations of disguised financial transactions, 12 helping to author the complaint against Enron, to 13 prepare -- help securities fraud analysts prepare 14 complaints in complex financial matters. All of that 15 experience comes into play.</p> <p>16 Q. (BY MR. SAFER) Is there any written 17 resource that you know of that defines a reasonable 18 degree of certainty in the forensic accounting field?</p> <p>19 A. I wouldn't refer specifically to the 20 forensic accounting field. I -- I consider that as 21 something that is expected of an expert witness. And 22 a reasonable degree of certainty means to me -- the 23 way I interpret that is that a qualified expert, given 24 the similar set of circumstances to evaluate, would -- 25 would come to a similar conclusion. In other words,</p>	<p>1 Q. Mr. Myers, how many hours have you worked 2 on this case?</p> <p>3 A. I'm not sure. Hundreds.</p> <p>4 Q. As many as a thousand?</p> <p>5 A. It's possible.</p> <p>6 Q. Have you been paid in this case?</p> <p>7 A. Yes.</p> <p>8 Q. How much have you been paid to date?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know approximately how much you've 11 been paid to date?</p> <p>12 A. More than \$100,000.</p> <p>13 Q. I believe at -- in your last deposition 14 back in 2015, you testified that you had already been 15 paid more than \$100,000 by that time.</p> <p>16 A. My answer is accurate, then, huh?</p> <p>17 Q. Do you know how much more than 100,000?</p> <p>18 A. I really don't know.</p> <p>19 Q. Do you know how much you've been paid in 20 the last year on this case.</p> <p>21 A. I didn't do that analysis. I can get 22 that number for you.</p> <p>23 Q. On page 7 of the report that you have in 24 front of you, you state that the United States Chamber 25 of Commerce acted as a pass-through organization.</p>

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<p style="text-align: right;">Page 34</p> <p>1 A. Yes.</p> <p>2 Q. What is your definition of a pass-through</p> <p>3 organization?</p> <p>4 A. They were like a conduit representing the</p> <p>5 contributor and taking -- assisting to effectuate</p> <p>6 political outcomes. The money was passing through</p> <p>7 from the contributor to the ultimate object of the</p> <p>8 contributor's interest typically in a judicial context</p> <p>9 or in some kind of political context.</p> <p>10 Q. Are you -- are you an expert in the field</p> <p>11 of Illinois campaign finance law?</p> <p>12 A. No.</p> <p>13 Q. Have you read the Illinois campaign</p> <p>14 finance laws?</p> <p>15 A. Some of it.</p> <p>16 Q. Which have you read?</p> <p>17 A. Well, for example, on page 16, I cite a</p> <p>18 Illinois campaign finance law that comes from</p> <p>19 something that Justice Karneier wrote in his Philips</p> <p>20 Morris supervisory order where he specifically</p> <p>21 condemned the practice of obscuring the identity of a</p> <p>22 preliminary contributor as illegal. And I footnote --</p> <p>23 I put Footnote 60 in there that gives the full quote</p> <p>24 of the justice's opinion, which comes from Illinois</p> <p>25 campaign law.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No, it's not the code, but it's an</p> <p>2 interpretation of it.</p> <p>3 Q. Have you read anything other than you</p> <p>4 just cited in the Illinois campaign finance laws?</p> <p>5 A. I actually downloaded the -- the material</p> <p>6 that relates to the last section that I cited about a</p> <p>7 contributor -- it being illegal for a contributor to</p> <p>8 obscure their identity. I read that -- I mean, I</p> <p>9 didn't read the whole section, but I downloaded it.</p> <p>10 That's the only other section that I've looked at.</p> <p>11 Q. Do you know how contribution was defined</p> <p>12 under the Illinois campaign finance law in 2004?</p> <p>13 A. I didn't. I didn't parse out the meaning</p> <p>14 of that word.</p> <p>15 Q. You are not opining as to whether or not</p> <p>16 State Farm made any contribution in the 2004 campaign</p> <p>17 as that term is defined by the Illinois campaign</p> <p>18 finance laws, are you?</p> <p>19 MR. COSGROVE: Object to form and</p> <p>20 foundation, incomplete hypothetical.</p> <p>21 A. Why don't you define that for me, under</p> <p>22 the Illinois law, because I'm not familiar with the</p> <p>23 definition.</p> <p>24 Q. (BY MR. SAFER) Right. So the question</p> <p>25 is --</p>
<p style="text-align: right;">Page 35</p> <p>1 And it says that "Illinois law requires</p> <p>2 campaign committees to register and make public</p> <p>3 disclosures of all contributions they receive from any</p> <p>4 individual or an entity in excess of \$150, 10 ILCS</p> <p>5 5/9-10,11 (West 2012). Political action" --</p> <p>6 continuing with the quote from the judge -- or from</p> <p>7 the law -- "Political action committees or PACs are</p> <p>8 also required to file periodic reports listing the</p> <p>9 contributions they receive. It is illegal to obscure</p> <p>10 the identity of contributors to such organizations by,</p> <p>11 for example, giving money to a third party and</p> <p>12 directing them to make a contribution." That comes</p> <p>13 from 10 ILCS 5/9-25. So I do know that piece of</p> <p>14 Illinois law -- campaign law.</p> <p>15 Q. Have you read any other Illinois campaign</p> <p>16 finance laws?</p> <p>17 A. Yes. I also cite to the campaign -- I</p> <p>18 believe it's the Campaign Disclosure Act. If you give</p> <p>19 me a second, I'll show you where that is. Yes. It's</p> <p>20 on page 17. And I talk about the Illinois Board of</p> <p>21 Elections Guide to Campaign Disclosure. And I quote</p> <p>22 specifically from that campaign disclosure material,</p> <p>23 which is -- yeah.</p> <p>24 Q. Okay. So that's not the Illinois</p> <p>25 campaign finance law, correct?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Other than the plain English</p> <p>2 interpretation.</p> <p>3 Q. The question is are you opining as to</p> <p>4 whether or not State Farm made any contribution in the</p> <p>5 2004 campaign as that term is defined by the Illinois</p> <p>6 campaign finance laws?</p> <p>7 MR. COSGROVE: Same objection.</p> <p>8 A. And you would have to give me that</p> <p>9 definition because I don't have it in my head. If you</p> <p>10 give me the definition, I'll give you my opinion.</p> <p>11 Q. (BY MR. SAFER) Have you made an opinion</p> <p>12 about that?</p> <p>13 MR. COSGROVE: Same objection.</p> <p>14 A. Yes, I believe that -- that State Farm</p> <p>15 did contribute to the campaign finance effort of</p> <p>16 Mr. Karneier.</p> <p>17 Q. (BY MR. SAFER) Without knowing what the</p> <p>18 definition of contribution is in the Illinois campaign</p> <p>19 finance laws in 2004?</p> <p>20 A. Yes. I assume that it has a general</p> <p>21 usage of the term contribution. If there's something</p> <p>22 esoteric about it, I'm not aware of it, other than the</p> <p>23 plain English interpretation.</p> <p>24 Q. So are you opining as to whether or not</p> <p>25 State Farm violated the Illinois campaign finance laws</p>

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<p>1 as those laws existed in 2004?</p> <p>2 A. No.</p> <p>3 Q. Did State Farm ever direct that the cham</p> <p>4 -- the United States Chamber of Commerce or ILR give</p> <p>5 State Farm's contribution to a specific source?</p> <p>6 A. I have to go back to my jigsaw puzzle</p> <p>7 analogy with you because I never saw any explicit</p> <p>8 contract between State Farm, for example, and the U.S.</p> <p>9 Chamber. But I did -- I can give you an idea and some</p> <p>10 insight into how I examined the evidentiary record to</p> <p>11 come to the conclusion that in -- there's substantial</p> <p>12 evidence that they did make a contribution through the</p> <p>13 ILR to the Karneier campaign.</p> <p>14 Q. Okay. The -- when you say you saw no</p> <p>15 explicit contract, what do you mean?</p> <p>16 A. There was no -- there was no -- I think</p> <p>17 that's clear. What -- what part of that don't you</p> <p>18 understand? I said there's no explicit contract.</p> <p>19 Q. So do you mean that there would -- you</p> <p>20 saw nothing explicit that State Farm directed the</p> <p>21 United States Chamber of Commerce or the ILR to give</p> <p>22 State Farm's contribution to a specific source?</p> <p>23 A. I saw nothing in writing in that context,</p> <p>24 but I did see considerable evidence to indicate that</p> <p>25 that was, in fact, the agreement between the parties</p>	<p>1 which excerpts of depositions you read?</p> <p>2 A. No, I don't believe so.</p> <p>3 Q. Did you take into account in formulating</p> <p>4 your opinions the excerpts of Ms. Rickard's deposition</p> <p>5 testimony that you read?</p> <p>6 A. I obviously would have subconsciously</p> <p>7 taken it into account. There was nothing she said</p> <p>8 that I relied on to form my opinion.</p> <p>9 Q. Did you review the deposition of Rod</p> <p>10 Engstrom?</p> <p>11 A. Yes.</p> <p>12 Q. Is that listed in your report?</p> <p>13 A. I believe it is.</p> <p>14 Q. Could you look at page 109 of your</p> <p>15 report?</p> <p>16 A. Sure.</p> <p>17 Q. Is that where you list the deposition</p> <p>18 transcripts that you reviewed in whole or in part?</p> <p>19 A. Yes. I have received Engstrom, though,</p> <p>20 and I did review it. It's not -- if it's not there, I</p> <p>21 must have received it after my report was filed or</p> <p>22 other -- otherwise, it was inadvertently omitted.</p> <p>23 Q. Do --</p> <p>24 A. I don't cite to it.</p> <p>25 Q. Do you know which -- when -- when was</p>
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<p>1 or that would support the allegation that that was the</p> <p>2 agreement.</p> <p>3 Q. You -- did you review the deposition</p> <p>4 testimony of Lisa Rickard?</p> <p>5 A. I saw excerpts from her deposition, but I</p> <p>6 didn't read the whole deposition.</p> <p>7 Q. Who selected the excerpts for you?</p> <p>8 A. Carolyn Chaw in my office. I didn't have</p> <p>9 time to read all of the depositions.</p> <p>10 Q. Did -- did you delineate which excerpts</p> <p>11 you've read and which --</p> <p>12 A. I don't recall specifically.</p> <p>13 Q. Did you delin --</p> <p>14 A. I --</p> <p>15 Q. I'm sorry.</p> <p>16 MR. CLIFFORD: Let him finish.</p> <p>17 THE DEPONENT: I'm sorry?</p> <p>18 MR. CLIFFORD: You finish answering, and</p> <p>19 then let him finish his question.</p> <p>20 THE DEPONENT: That's how it works.</p> <p>21 Thank you.</p> <p>22 Q. (BY MR. SAFER) Were you done? I'm</p> <p>23 sorry.</p> <p>24 A. I am done. Thank you.</p> <p>25 Q. Did you delineate anywhere in your report</p>	<p>1 your -- your report was filed pretty recently, right?</p> <p>2 A. Right.</p> <p>3 Q. Do -- do you believe you have received</p> <p>4 Rod Engstrom's deposition after you filed --</p> <p>5 A. It's possible. I don't know. I could</p> <p>6 check.</p> <p>7 Q. But you reviewed those transcripts?</p> <p>8 A. Yes.</p> <p>9 Q. Do -- did you review them in whole or in</p> <p>10 part?</p> <p>11 A. In part.</p> <p>12 Q. So is there any way of telling, from</p> <p>13 looking at your report, which parts of any of these</p> <p>14 depositions you reviewed?</p> <p>15 A. I could describe the methodology; but,</p> <p>16 no, I can't tell you specifically what pages.</p> <p>17 Q. Okay. Could you describe the</p> <p>18 methodology?</p> <p>19 A. Sure. I would search for particular</p> <p>20 terms that I was interested in. If I -- if I didn't</p> <p>21 have time to read the whole depositions, I would</p> <p>22 assign a staff person to do that and highlight it for</p> <p>23 me for issues that were germane to -- to my analysis.</p> <p>24 If I didn't have a highlighted</p> <p>25 transcript, I would search for terms. Like, for</p>

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<p style="text-align: right;">Page 42</p> <p>1 example, with Engstrom, I was interested in his -- if 2 the term "sponsoring entity" came up in his deposition 3 because there's an issue of an email from Mr. Murnane 4 to Mr. Engstrom in September of 2004 where Mr. Murnane 5 purported to do a calculation based on the existing 6 contributions to -- to JUSTPAC. And -- and he 7 informed Mr. Engstrom of how much money the U.S. 8 Chamber would have to provide in order to avoid the 9 sponsoring-entity designation under the Illinois 10 Campaign Act and avoid disclosure. 11 So I was interested in Mr. Engstrom's 12 side and what he thought about that, what -- what he 13 was going to say about that, because I thought it was 14 particularly probative in terms of the motives of the 15 affiliated organizations in State Farm. 16 But I didn't find anything that -- I was 17 hoping to find his explanation or some cogent 18 explanation. And I would weigh that evidence in terms 19 of should I change my opinion about the -- the nature 20 of that transaction. I didn't find anything in his 21 testimony that shed any light on that particular 22 issue. 23 Q. Did you -- did you search for the term 24 "earmarking" in the -- in any of the depositions that 25 you reviewed?</p>	<p style="text-align: right;">Page 44</p> <p>1 A. No. 2 Q. Did you take into account the testimony 3 of U.S. Cham -- well, did you read the testimony of 4 Mr. Engstrom that earmarking of contributions is not 5 permitted by the Chamber or ILR? 6 A. I am familiar with his testimony in that 7 regard, but it contradicts the evidentiary stuff that 8 I examined. So it was of interest to me, and I would 9 expect him to say that. 10 Q. Why would you expect him to say that? 11 A. Because I don't think that the -- the 12 U.S. Chamber enjoys being involved in litigation like 13 this and the negative publicity that could engender or 14 result from this type of an action. I don't think 15 they are proud of what they did. 16 Q. Or is it -- 17 A. Excuse me. That's wrong. I think they 18 were proud -- at one time, they were proud of what 19 they did. They are not now. 20 Q. So you are opining as to the U.S. 21 Chamber's state of mind and whether or not they are 22 proud; is that true? 23 MR. CLIFFORD: Objection, argumentative, 24 misleading. 25 A. Well, for example, I am -- I'm inferring</p>
<p style="text-align: right;">Page 43</p> <p>1 A. No. I just looked primarily for terms 2 that touched on issues that I had discussed in my 3 report. 4 Q. You discuss earmarking in your report, 5 don't you? 6 A. I -- I don't think so. I don't think I 7 used that term. Maybe. It's possible. 8 Q. So on page 10 -- 9 A. Yes. 10 Q. You were just discussing Engstrom. So it 11 says, "Engstrom sought to ensure that the use of the 12 Chamber" -- 13 A. Forgive me, sir. I don't know exactly 14 where you're at. 15 Q. Yeah. Oh, Engstrom -- do you see where 16 it says, "Engstrom"? 17 A. Oh, okay. Thank you. 18 Q. Sure. -- "as a paid conduit for 19 donations earmarked for the Karmeier campaign would 20 remain confidential." 21 A. Yeah, I do see that. But I did check for 22 that issue from Mr. Engstrom. I wanted to see what 23 his take was on all that. 24 Q. Did you check, for Mr. Engstrom, the term 25 "earmarking"?</p>	<p style="text-align: right;">Page 45</p> <p>1 -- I'm not a psychologist, and I'm not opining on 2 their state of mind. I think the trier of fact can 3 evaluate this. But the fact that -- when Mr. Rust 4 from State Farm originally signed up for the 5 million-dollar campaign with ILR, Ed Rust sent him a 6 letter thanking him for his role in all the actions 7 that he had taken to help with the legal reform. And 8 then he attached a copy of The Wall Street Journal 9 article that he bragged about. He said, I'd like -- I 10 need to see exactly what he said. Can I have a second 11 to do that? 12 MR. CLIFFORD: Sure. 13 A. Well -- 14 MR. CLIFFORD: Look at page 25. 15 THE DEPONENT: Page 25, yeah. 16 MR. CLIFFORD: Is that where you're at? 17 THE DEPONENT: Yes. 18 MR. CLIFFORD: Page 25 -- Counsel, he's 19 on page 25 of his report. 20 A. The specific letter that I'm referring to 21 is a letter in 2001 to Mr. Rust thanking him for his 22 million-dollar contribution and for all of his support 23 and looking forward to working with him on legal 24 reform. 25 And there -- if I could see the letter, I</p>

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<p style="text-align: right;">Page 46</p> <p>1 would be happy to elaborate further what I'm talking 2 about. But at the end of the letter, he said, I'd 3 like for you to take a look at that recent Wall Street 4 Journal article that basically was touting the 5 Chamber's role in functioning as this conduit that I 6 described in my -- in my report that we referred to 7 earlier.</p> <p>8 Specifically in that Wall Street Journal 9 article -- this is of September 11, 2001 -- the name 10 is Business Lobby Recovers Its Clout By Dispensing 11 Favors For Members. The -- the quote from that 12 article, which Mr. Donohue was calling Mr. Rust's 13 attention to, he said -- when he said he was proud of 14 it, I assume if he's calling his attention to it and 15 bragging about the article that he's proud of it.</p> <p>16 But anyway, the article said, among other 17 things, "The organization" -- U.S. Chamber -- "has 18 created several special accounts to take in money for 19 projects on behalf of individual companies or groups 20 of companies with a common policy goal. In some 21 cases, the money is spent just days after it comes in 22 the door. The chamber, like many other non-profit 23 organizations, isn't required to report the sources of 24 its funding, which makes it an attractive vehicle for 25 those . . . who sometimes like to operate under the</p>	<p style="text-align: right;">Page 48</p> <p>1 records of the U.S. Chamber to that extent, but I've 2 seen evidence that indicates that's exactly what 3 happened.</p> <p>4 Q. What evidence of special accounts have 5 you seen?</p> <p>6 A. For example, when Mr. Rust originally 7 wrote his -- or wrote a \$1 million check to the 8 Chamber, Institute for Legal Reform, on May 30 of 9 2003, that immediately engendered the formation of the 10 Madison County Coalition, which is something that 11 State Farm would have been seriously in favor of. In 12 fact, Mr. Shepherd was a member of the coalition -- 13 Madison County Coalition, I believe.</p> <p>14 Within less than a week, the Madison 15 County Coalition was formed, \$20,000 was sent by the 16 chamber to ICJL and Mr. Murnane to kind of prime the 17 pump for the campaign. And Mr. Murnane was out there 18 recruiting Karmerier, and so forth. So it does look 19 like a quid pro quo to me.</p> <p>20 Q. What evidence do you rely on for your 21 opinion that it was -- that State Farm's donation of a 22 million dollars was a quid pro quo for the creation of 23 the Madison County Coalition?</p> <p>24 A. There are numerous documents that would 25 indicate that that is true. I don't have them</p>
<p style="text-align: right;">Page 47</p> <p>1 radar."</p> <p>2 There's more quotes from this particular 3 article. And that's exactly what I was asked to 4 analyze as a forensic analyst.</p> <p>5 MR. SAFER: I move to strike everything 6 in that answer after the first phrase about not being 7 a psychologist.</p> <p>8 MR. CLIFFORD: To which we would object.</p> <p>9 Q. (BY MR. SAFER) That article that you 10 just cited and you just talked about, the creation of 11 several special accounts by the U.S. Chamber of 12 Commerce or ILR?</p> <p>13 A. Um-hum.</p> <p>14 MR. CLIFFORD: Objection to the question 15 and argue waiver of the previous objection. Go ahead, 16 please.</p> <p>17 A. The question, please?</p> <p>18 Q. (BY MR. SAFER) You -- you referred to an 19 article that -- in your report that talked about the 20 creation of several special accounts to take in money?</p> <p>21 A. I did.</p> <p>22 Q. Have you seen evidence of the U.S. 23 Chamber of Commerce or ILR having special accounts 24 into which they took in money?</p> <p>25 A. I have not been able to examine the</p>	<p style="text-align: right;">Page 49</p> <p>1 committed to memory, and I'm sure that as we -- as we 2 continue -- for example, Donohue -- I'm looking at 3 page 25 again, a quote from The Washington Monthly 4 which says, "A large part of what the Chamber sells is 5 political cover. For multibillion-dollar issuers, 6 drug-makers, and medical device manufacturers who are 7 too smart and image conscious to make public attacks 8 of their own, the Chamber of Commerce is a friend who 9 will do the dirty work. 'I want to give them all of 10 the deniability they need,' says Donohue."</p> <p>11 So, yeah, when I say quid pro quo, I 12 think that's what they are talking about. And Donohue 13 himself seems to be -- and perhaps this is a wrong 14 word to use. I used the word proud before, but 15 Donohue himself is promoting the -- the language of 16 these articles to his prospective high-rolling 17 contributors.</p> <p>18 And another reason why I believe that the 19 -- the amount of money that State Farm was able to 20 flash in front of Mr. Donohue was determinative and 21 proportional to the effort that the ILR and the U.S. 22 Chamber used to help him with his campaign problem in 23 Illinois. The -- there was around that time -- and 24 I'm doing this out of memory, but there's a document 25 that says in an ILR board meeting that they were going</p>

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1 to emphasize those members of the ILR -- ILR that had
2 contributed the million dollars or more. And they
3 were going to give them special input into the
4 placements of the funds, and so on.

5 **Q. So is it your testimony that you believe**
6 **that a part of the million dollars that State Farm**
7 **contributed in 2003 was sent to ICJL in its efforts**
8 **with regard to the Madison County Coalition?**

9 A. Well, I need to qualify that because I
10 don't believe that Mr. Rust gave them a suitcase full
11 of \$100 bills and those very same bills found their
12 way into the Karneier campaign. But, yes, there was
13 -- there was -- I don't know if there was a physical
14 account maintained or if it's a mental thing; but
15 certainly over the years since the Avery litigation,
16 Ed Rust had built up tremendous goodwill with the
17 Chamber. And for a non-profit organization that
18 doesn't have other revenues, the money in has got to
19 equal the money out. Otherwise, they are insolvent.
20 So that money that -- that the ILR wired to the
21 Illinois Republican Party had to come from somewhere.
22 They didn't have a billion dollars retained earnings,
23 or anything like that. It came from State Farm in my
24 view.

25 **Q. And what accounting principles did you**

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1 **use to determine that that money that went to the**
2 **Illinois Republican Party from the U.S. Chamber of**
3 **Commerce came from State Farm?**

4 A. Substance over form. But I need to
5 remind you, again, that I didn't sit here consciously
6 as I was doing the analysis and wonder is this
7 consistent with generally accepted accounting
8 principles. I didn't -- it's incidental that I'm a
9 CPA.

10 **Q. How much -- how much of State Farm's**
11 **money went in 2003 to the creation of the Madison**
12 **County Coalition?**

13 A. I don't know.

14 **Q. Do you have any approximation?**

15 A. Well, I know from Mr. -- Mr. Murnane's
16 letter that when he was wooing Mr. Karneier to become
17 the judge, he talked about big bucks that were
18 available in Washington and from the Chamber. I don't
19 remember exactly the point in time when he referred to
20 -- maybe it was later on in 2003 when he talked about
21 the 1.8 to \$2.0 billion that -- that he was looking
22 forward to getting from the U.S. Chamber.

23 I need to see these documents. I'm doing
24 this off the top of my head, and I may be misquoting
25 somewhat. If you have the document, I'll be happy

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1 to --

2 **Q. The question -- you testified that there**
3 **was a quid pro quo between State Farm's contribution**
4 **in 2003 to the creation of the Madison County**
5 **Coalition one week later.**

6 A. Yes, sir.

7 **Q. How much money was paid for -- for the**
8 **creation of the Madison County Coalition that came**
9 **from State Farm?**

10 A. That information wasn't available to me.
11 Again, this is like a jigsaw analogy. I didn't get
12 everything handed to me on a silver platter.

13 **Q. What did you try to do to get ILR's**
14 **financial records?**

15 A. I examined the database that we had. Of
16 course, as I mentioned in my previous deposition, I
17 would love to be able to go in and see the accounting
18 records for the U.S. Chamber for ATRA for the ILR, and
19 so forth; but that wasn't available to me.

20 **Q. Why would you love to be able to see**
21 **those records?**

22 A. Because it would clarify the situation.
23 I'm working with a jigsaw puzzle. The more pieces I
24 can get, the -- the better informed my opinion.

25 **Q. What did -- I'm sorry.**

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1 A. But at a certain point, sir, you don't
2 have to have 1,026 pieces to know that it's a
3 Washington, D.C. -- aerial view from the Washington
4 Monument. You can do it from as little as 20 pieces
5 or 100 pieces, but I had a considerable amount of
6 evidence that I needed to form the conclusion that I
7 express in my -- or articulate in my report.

8 **Q. What did you do to try to get those**
9 **records, those financial records from ILR, the U.S.**
10 **Chamber, ATRA, et cetera?**

11 A. I assumed it was futile. I didn't -- I
12 mean, I could -- I guess I could ask Tom Donohue if he
13 would let me take a look at his records, let me come
14 over there and take a look for a couple of days; but I
15 didn't expect him to be amenable to that.

16 **Q. So you assumed it was --**

17 A. Forgive the sarcasm. You're being very
18 courteous, and I don't want to be a smart aleck.

19 **Q. You assumed it was futile, so you did**
20 **nothing?**

21 A. That's correct -- well, no, I didn't do
22 -- it's not that I didn't do nothing. I inquired if
23 he had anything in the database further than what we
24 had, and the answer was no. And ultimately, we would
25 search the database for relevant information.

14 (Pages 50 to 53)

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<p>1 MR. SAFER: Why don't we take a brief 2 break. 3 THE VIDEOGRAPHER: Going off the record. 4 The time is 11:07. 5 (Recess taken, 11:07 a.m. to 11:19 a.m.) 6 THE VIDEOGRAPHER: We're back on the 7 record. The time is 11:19. 8 Q. (BY MR. SAFER) Mr. Myers, you mentioned 9 an FBI manual that you said that you relied upon in 10 conducting your work in this case. Is that referenced 11 anywhere in your -- either of your reports? 12 A. No. 13 Q. Is the DOJ manual you referred to earlier 14 referenced anywhere either in -- in either of your 15 reports? 16 A. No. 17 Q. Why not? 18 A. And I should clarify that because I 19 didn't rely on them. I cited them in my testimony as 20 authoritative sources of guidance. I didn't need to 21 -- I know that my examination was consistent with 22 those guidelines, but I didn't rely on them; no more 23 than I relied on any kind of accounting practices or 24 audit -- generally accepted auditing standards. 25 Q. Have you seen an email where any State</p>	<p>1 that's best I recollect. It was an email from 2 Mr. Murnane to Mr. Pintak and someone -- I believe it 3 was Engstrom from the U.S. Chamber -- talking about 4 the Chamber's efforts in preparing negative ads deep 5 into the campaign timeline, November 2004. 6 So I think that the -- the ILR and the 7 Chamber -- I didn't see any explicit contract for 8 that, but I know that the ILR and the Chamber were 9 doing work in that regard. At least that piece of 10 evidence would seem to infer that. 11 Q. And that piece of evidence -- from that 12 piece of evidence, you inferred that a State Farm 13 employee directed ILR to use State Farm's contribution 14 in that way? 15 A. No, no, they are -- there are myriad 16 pieces of evidence, and my report is replete with 17 references to those -- to those pieces of evidence. 18 And I refer you to my report if you don't understand 19 what I'm talking about. 20 MR. SAFER: I move to strike everything 21 after, "No." 22 MR. COSGROVE: I believe it was 23 responsive. We would have an objection to your motion 24 to strike. 25 Q. (BY MR. SAFER) Have you seen an email or</p>
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<p>1 Farm employee directed ILR to use State Farm's 2 contribution in a certain way? 3 A. I never saw anything explicit in writing. 4 Q. Have you -- 5 A. Excuse me. Let me finish my question -- 6 or my answer, please. I referred to financial 7 accounting standard board concept date substance over 8 form. And I applied that liberally throughout my 9 analysis. What is the substance of the transaction? 10 What is the economic substance? Where did this money 11 ultimately go to? 12 No, I didn't see any explicit writing or 13 contract that called for particular earmarking; but 14 that's, in fact, what happened in my view. There's 15 overwhelming evidence to support that. 16 MR. SAFER: I move to strike the answer 17 after the first phrase. 18 MR. CLIFFORD: To which we would object. 19 It was completely responsive to your question. 20 Q. (BY MR. SAFER) Have you seen a letter 21 where state -- any State Farm employee directed ILR to 22 use State Farm's contribution in a certain way? 23 A. Well, not explicitly. But, for example 24 something I would weigh or take into consideration was 25 an email -- and I don't have it in front of me, but</p>	<p>1 any other writing where any State Farm employee 2 directed the United States Chamber of Commerce to use 3 State Farm's contribution in a certain way? 4 A. I would give the same answer. My report 5 is full of references that would imply that pieces of 6 evidence that I took into consideration and, in fact, 7 relied on. But I never saw any explicit writing or 8 contract that would articulate the terms that you just 9 described. 10 Q. Is -- have you ever seen an email or any 11 other writing where any State Farm employee directed 12 any of the organizations cited in your report as 13 affiliated organizations to use State Farm's 14 contribution in a certain way? 15 A. The same response. I would refer you to 16 my report where there are numerous instances of the 17 evidence that I considered in that regard. Having 18 said that, the -- the simple answer is, no, I haven't 19 seen any explicit writing. 20 Q. Have you seen the recounting of a 21 conversation in which someone from State Farm directed 22 any of the affiliate organizations to use State Farm's 23 contribution in a certain way? 24 A. No. 25 Q. Okay. If we could look for a moment at</p>

15 (Pages 54 to 57)

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<p>1 page 8 of your report. Do you see the paragraph that 2 starts -- 3 A. I'm sorry. I'm not there. I have fumble 4 fingers. 5 Q. No problem. 6 A. Please. 7 Q. On page 8, I'm looking at the paragraph 8 that starts, "State Farm." 9 A. Yes. 10 Q. It says, "State Farm dramatically 11 increased its donations to the Chamber after the 12 program was put in place." 13 Do you see that -- 14 A. Yes. 15 Q. -- paragraph? And it says, "And while 16 the Avery action and appeal were pending." 17 A. Yes. 18 Q. When did State Farm's contribution to the 19 United States Chamber of Commerce first dramatically 20 increase by your definition? 21 A. I -- I don't have it in memory, but I can 22 tell you the best that -- when Mr. Donohue came 23 onboard in 1997, I think the State Farm contributions 24 went from something like, I recall, \$26,000 a year to 25 \$100,000 for the President's Advisory Group. And then</p>	<p>1 there were several references like that that caused me 2 to think that they were -- Rust was counting on the 3 support of the Chamber in Avery, notwithstanding the 4 fact also that the Chamber was issuing amicus briefs 5 in support of their position in the Avery class 6 action. 7 So there was a lot of reason for Mr. Rust 8 to be excited about his relationship with Mr. Donohue 9 and for Mr. Donohue to be excited about the money that 10 was going to come in from Mr. Rust and the opportunity 11 to function in the manner that he -- is described in 12 The Wall Street Journal article that we alluded to 13 earlier. 14 Q. So you are giving an opinion as to 15 Mr. Rust or Mr. Donohue's state of mind or level of 16 excitement? 17 A. With respect to what point? 18 Q. Your -- your previous answer. 19 A. Can I hear that back, please? 20 (The last answer was read back as 21 follows: "Well, there was correspondence between 22 Mr. Rust and Mr. Donohue that talked about him taking 23 care of them and the Illinois -- these are general 24 recollections. I need to see the document. My report 25 cites all of this stuff much more thoroughly than I</p>
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<p>1 it subsequently increased around 2001 to a million 2 dollars plus the \$100,000 for the President's Advisory 3 Group. 4 I'm referring to -- I'm relying on Agnes 5 Warfield's memorandum on that. And if you showed it 6 to me, I could tell you -- give you an exact answer. 7 Q. What evidence did you see that this 8 increase was related in any way related to Avery? 9 A. Well, the proposition that State Farm was 10 enmeshed in a billion-dollar lawsuit which had been 11 decided against them that had been affirmed on appeal 12 and was hanging out basically for \$1,056,636,180 with 13 interest accumulating at more than \$250,000 a day, I 14 think that would have got their attention. 15 Q. Is there any other evidence that you saw 16 that the increase in State Farm's contribution was 17 related in any way to the Avery case? 18 A. Well, there was correspondence between 19 Mr. Rust and Mr. Donohue that talked about him taking 20 care of them and the Illinois -- these are general 21 recollections. I need to see the document. The -- my 22 report cites all of this stuff much more thoroughly 23 than I can do off the top of my head, but Mr. Donohue 24 assures Mr. Rust that his interest in the judicial 25 elections in Illinois will be taken care of. And</p>	<p>1 can do off the top of my head, but Mr. Donohue assures 2 Mr. Rust that his interest in the judicial elections 3 in Illinois will be taken care of. And there were 4 several references like that that caused me to think 5 that they were -- Rust was counting on the support of 6 the Chamber in Avery, notwithstanding the fact also 7 that the Chamber was issuing amicus briefs in support 8 of their position in the Avery class action. 9 There was a lot of reason for Mr. Rust to 10 be excited about his relationship with Mr. Donohue and 11 for Mr. Donohue to be excited about the money that was 12 going to come in from Mr. Rust and the opportunity to 13 function in the manner that he -- is described in The 14 Wall Street Journal article that we alluded to 15 earlier." 16 A. I don't think that I'm referring to the 17 state of mind of Mr. Donohue or Mr. Rust. I'm talking 18 about the implications of the explicit -- explicit 19 exchange of communication between them. 20 And I would add to that, the Sheehan 21 award that was given to -- to -- to Mr. Rust in June 22 of 2004 acknowledging that he was, in fact, one of 23 Tom Donohue's best friends from the beginning who had 24 done, perhaps, more than anyone to pursue the programs 25 that Donohue espoused at the Chamber. He's a leader</p>

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<p>1 in civil justice reform, and things like that. There</p> <p>2 are -- my report is far more complete in terms of</p> <p>3 being responsive to your question, but that's what</p> <p>4 comes to my mind off the top of my head.</p> <p>5 Q. (BY MR. SAFER) Is it your testimony that</p> <p>6 the Sheehan award was because of Mr. Rust's leadership</p> <p>7 in the civil justice reform?</p> <p>8 A. No. I think that I alluded to a</p> <p>9 relationship that seemed to be blossoming without --</p> <p>10 without characterizing what their -- their</p> <p>11 psychological state of mind. But it seemed like</p> <p>12 Mr. Rust certainly met a need that the U.S. Chamber</p> <p>13 had, and the U.S. Chamber certainly met a need that</p> <p>14 State Farm had. And in that context and that</p> <p>15 environment, I think the relationship would flourish.</p> <p>16 I would expect that.</p> <p>17 Q. You -- you testified, and I think you</p> <p>18 said you'd seen the documents and -- and if you want</p> <p>19 to look at page 9, it confirms your testimony that in</p> <p>20 1997 -- at the very top -- State Farm increased its</p> <p>21 contribution to the chamber to \$100,000. Does -- does</p> <p>22 that confirm your memory?</p> <p>23 A. Yes.</p> <p>24 Q. And -- and that the -- State Farm joined</p> <p>25 the President's Advisory Group in 1997?</p>	<p>1 answer that came.</p> <p>2 MR. SAFER: Okay. Well, that's not</p> <p>3 waiver. That -- that might be responsive. What's --</p> <p>4 I just want to understand the waiver point.</p> <p>5 MR. CLIFFORD: You -- you have our</p> <p>6 answer.</p> <p>7 MR. SAFER: Okay.</p> <p>8 Q. (BY MR. SAFER) Did you attach any</p> <p>9 significance to the fact that State Farm had a seat on</p> <p>10 the President's Advisory Group in 1997 before the</p> <p>11 Avery case was tried?</p> <p>12 A. Yes. I would say yes because, as I just</p> <p>13 explained, State Farm had a history of copious</p> <p>14 litigation. And State Farm would have been interested</p> <p>15 in legal reform, classification reform irrespective of</p> <p>16 their position with respect to Avery.</p> <p>17 So they have always had this need -- they</p> <p>18 were drawn to each other, the Chamber and State</p> <p>19 Farm -- but it intensified as -- as was demonstrated</p> <p>20 by the level of contributions with the Avery case and</p> <p>21 with the subsequent billion-dollar judgment,</p> <p>22 affirmation of that judgment. And it became</p> <p>23 particularly intense when it was appealed to the</p> <p>24 Illinois Supreme Court and there was an election for a</p> <p>25 seat where it was possible to find a judge that might</p>
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<p>1 A. Yes, sir.</p> <p>2 Q. Is that related in any way to the Avery</p> <p>3 case?</p> <p>4 A. No. That wouldn't be related to the</p> <p>5 Avery case, but it does relate to the fact that Agnes</p> <p>6 Warfield, at one point in one of her memos to</p> <p>7 Mr. Donohue, said that State Farm was like a</p> <p>8 litigation magnet. That wasn't her exact words, but</p> <p>9 they said -- she said something like one-fourth of all</p> <p>10 of the litigation -- tort litigation relates to State</p> <p>11 Farm.</p> <p>12 So State Farm didn't just encounter this</p> <p>13 problem for the first time with Avery. Apparently, at</p> <p>14 least according to the U.S. Chamber, it had</p> <p>15 considerable experience in the litigation arena --</p> <p>16 MR. SAFER: Move --</p> <p>17 A. -- as a defendant.</p> <p>18 MR. SAFER: I move to strike the answer</p> <p>19 after the first phrase.</p> <p>20 MR. CLIFFORD: Objection to the motion</p> <p>21 and also add waiver.</p> <p>22 MR. SAFER: So that I understand it, what</p> <p>23 is -- what -- what's the waiver, so I don't do that</p> <p>24 again.</p> <p>25 MR. COSGROVE: Your question invited the</p>	<p>1 be predisposed favorably toward State Farm's position</p> <p>2 versus someone else that might not be.</p> <p>3 MR. SAFER: I move to strike the answer</p> <p>4 as unresponsive.</p> <p>5 MR. COSGROVE: Could you -- we -- could</p> <p>6 you state the question back for a second before I</p> <p>7 respond?</p> <p>8 (The last question was read back as</p> <p>9 follows: "Did you attach any significance to the fact</p> <p>10 that State Farm had a seat on the president's advisory</p> <p>11 group in 1997 before the Avery case was tried?")</p> <p>12 MR. COSGROVE: Thank you. We would</p> <p>13 object -- we would object to your motion and state for</p> <p>14 the record that your question invited the question and</p> <p>15 answer that was provided by the witness, and it was</p> <p>16 appropriate under the circumstance.</p> <p>17 Q. (BY MR. SAFER) What is the President's</p> <p>18 Advisory Group?</p> <p>19 MR. CLIFFORD: Objection to the question.</p> <p>20 Assumes facts not in evidence.</p> <p>21 A. I'm sure that I explain it in the -- if I</p> <p>22 don't explain it literally in the narrative of the --</p> <p>23 my report, it's referred to in a footnote, because I</p> <p>24 recall seeing it. But I can tell you the President's</p> <p>25 Advisory Group is sort of a favored status in</p>

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<p style="text-align: right;">Page 66</p> <p>1 recognition for making a -- a generous contribution, 2 that sort of thing.</p> <p>3 Q. (BY MR. SAFER) How many people are on 4 the President's Advisory Group?</p> <p>5 A. I don't know.</p> <p>6 Q. How often did it meet?</p> <p>7 A. I don't know.</p> <p>8 Q. Who else other than State Farm was on it?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you --</p> <p>11 A. Excuse me. I do. I think I've seen -- 12 there -- there's a roster of people on there, but I 13 don't recall, as I sit here, how many were -- there 14 were certainly many more than just one.</p> <p>15 Q. Do you -- do you know whether it ever 16 met?</p> <p>17 A. No.</p> <p>18 Q. Did you consider Ed Rust's testimony 19 about the President's Advisory Group in performing 20 your analysis?</p> <p>21 A. No. There was nothing about the 22 President's Advisory Group that I relied on other than 23 the fact that it was another 100 grand that was going 24 from State Farm to the U.S. Chamber.</p> <p>25 Q. You noted that in 2002 State Farm</p>	<p style="text-align: right;">Page 68</p> <p>1 A. -- specifically to where that is?</p> <p>2 Q. Page 9. It's about eight lines from the 3 bottom, eight lines up from the bottom.</p> <p>4 A. Okay. "Chamber" --</p> <p>5 MR. COSGROVE: That's on 9, correct?</p> <p>6 MR. SAFER: Yes.</p> <p>7 A. Okay. And your question was -- I'm 8 sorry. Could you repeat, please?</p> <p>9 Q. (BY MR. SAFER) Yeah, sure. What 10 evidence did you see that Ed Rust influenced the 11 contributions that ILR made?</p> <p>12 A. The contributions that ILR made?</p> <p>13 Q. Yes.</p> <p>14 A. I -- ILR didn't make any contributions. 15 Rust -- State Farm made the contributions.</p> <p>16 Q. Yes.</p> <p>17 A. I don't understand what you mean.</p> <p>18 Q. So did --</p> <p>19 MR. COSGROVE: I'll place an objection to 20 the question and ask you to rephrase, please.</p> <p>21 A. Are you talking about contributions to 22 the Illinois Republican Party?</p> <p>23 Q. (BY MR. SAFER) Any --</p> <p>24 MR. COSGROVE: Hold on.</p> <p>25 Q. (BY MR. SAFER) So --</p>
<p style="text-align: right;">Page 67</p> <p>1 accelerated its annual payment to ILR. Do you know 2 why ILR requested that?</p> <p>3 A. I thought it was because they wanted it 4 for the election cycle. I thought that's what the 5 letter said.</p> <p>6 Q. Do you understand that ILR typically ran 7 at a deficit in the early months of the year?</p> <p>8 A. No. There's no way I would know that. 9 We talked about the -- not having access to the 10 accounting records.</p> <p>11 Q. And have you seen any documents to that 12 effect, to the effect that they ran at a deficit in 13 the early months of the year?</p> <p>14 MR. CLIFFORD: Objection, asked and 15 answered, assumes facts not in evidence.</p> <p>16 MR. COSGROVE: And I'll also add to the 17 objection foundation.</p> <p>18 A. No.</p> <p>19 Q. (BY MR. SAFER) You stated on page 9 that 20 Ed Rust was on the board of directors of ILR where he 21 could -- he would have influence over ILR's 22 pass-through contributions to various campaigns and 23 races including the Karmeier campaign.</p> <p>24 A. Can you direct me --</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 69</p> <p>1 MR. COSGROVE: Hold on. Hold on. He'll 2 ask you a question, and he'll clear this up to make 3 sure that there's a proper question and a proper 4 answer.</p> <p>5 Q. (BY MR. SAFER) What evidence have you 6 seen that Ed Rust influenced any contributions that 7 ILR made?</p> <p>8 A. Oh, okay.</p> <p>9 MR. CLIFFORD: Objection to the 10 incomplete nature of the question. To whom?</p> <p>11 MR. SAFER: To anyone.</p> <p>12 A. I've already spoke to the -- the fact 13 that The Wall Street Journal article in 2001 alluded 14 to Donohue's formula basically for taking big money 15 from contributors and applying them to political ends 16 -- mean -- ends for the contributor.</p> <p>17 I've also offered other testimony that's 18 consistent with that. My report is full of 19 documentation and discussion that alludes to that 20 phenomenon.</p> <p>21 So -- so I -- and, again, I would 22 reiterate that I have never seen any explicit writing 23 or contract that earmarked these funds for the 24 Karmeier campaign, but the -- the substance over form 25 doctrine causes me to take into consideration and</p>

18 (Pages 66 to 69)

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<p style="text-align: right;">Page 70</p> <p>1 weigh and rely upon the other evidentiary record, 2 which is copious in this regard.</p> <p>3 Q. By the way, is precept 8 or the 4 substantive form doctrine referred to anywhere in 5 either of your reports?</p> <p>6 A. No. As I said, I do this -- I wasn't 7 going into this analysis as primarily a CPA or an 8 auditor or a CFE, or anything like that. I was going 9 as an expert witness that has a unique record for 10 dealing with complex financial transactions.</p> <p>11 Q. On page 13 of your report -- and I'll 12 wait until you get there.</p> <p>13 A. Yes. Thank you.</p> <p>14 Q. Okay. You -- you discuss a -- an 15 Illinois business round table meeting at which Justice 16 Karmeier spoke. And -- and you write in the second 17 full paragraph that "It's also worthy of note that at 18 the meeting, the IBRT touted its support for the 19 Karmeier campaign." Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know whether Justice Karmeier was 22 present when that happened?</p> <p>23 MR. COSGROVE: I just -- objection to the 24 form of the question. What is the -- what's the what? 25 The premise --</p>	<p style="text-align: right;">Page 72</p> <p>1 that for a fact.</p> <p>2 Q. Okay. So what is the basis of your 3 assumption that Justice Karmeier received the agenda 4 for the meeting?</p> <p>5 A. Well, all I know is if I were to step 6 into Ed Murnane's shoes and I was promoting this 7 celebratory meeting and rounding up all of the cast of 8 characters that contributed to this, I would think 9 that Mr. Karmeier would enjoy being aware of the 10 agenda. And I can't -- I can't imagine Mr. Murnane 11 not taking the opportunity to inform him of the role 12 that IBRT and these affiliated organizations had 13 played in getting him elected. That's just an 14 assumption, though, and based on what I think a 15 reasonable person would do; but I -- I don't have any 16 evidence of that. I don't -- excuse me -- I have 17 evidence of that, but I don't have any factual -- 18 anything in explicit writing.</p> <p>19 Q. You did read Judge -- Justice Karmeier's 20 deposition --</p> <p>21 A. Correct.</p> <p>22 Q. -- correct? How did that affect your 23 analysis about the IBRT meeting?</p> <p>24 MR. COSGROVE: We object to the form, and 25 it's a vague question that does not have a subject or</p>
<p style="text-align: right;">Page 71</p> <p>1 MR. SAFER: The tout -- the touting.</p> <p>2 MR. COSGROVE: I have an objection to 3 form. I'm not sure it's clear to me what the question 4 is. Maybe it is to the witness.</p> <p>5 Q. (BY MR. SAFER) Do you understand the 6 question?</p> <p>7 A. Could I have it one more time, please?</p> <p>8 Q. Sure. Sure. You write that the IBRT 9 touted its support for the Karmeier campaign. Do you 10 know whether Justice Karmeier was present when any 11 touting of the IBRT's support for the Karmeier 12 campaign was done?</p> <p>13 A. No.</p> <p>14 Q. Do you know whether Justice Karmeier 15 received the agenda for the meeting that you cite?</p> <p>16 A. I assume he would; he's the honored 17 guest, but -- but I don't have any -- I don't recall 18 reading any testimony from Karmeier on that point.</p> <p>19 Q. Do you recall seeing the -- any documents 20 that sent the agenda to him?</p> <p>21 A. Well, now I do remember emails generally 22 going out from ICJL, I think, and Mr. Murnane's 23 office. And I don't -- I'm sure that Kar -- well, I 24 would assume that Mr. Karmeier was one of the 25 recipients of those -- those emails, but I don't know</p>	<p style="text-align: right;">Page 73</p> <p>1 premise. Ask for a restatement.</p> <p>2 A. I'm sorry. That's -- that is kind of 3 vague and ambiguous.</p> <p>4 Q. (BY MR. SAFER) So --</p> <p>5 A. No offense.</p> <p>6 Q. -- did you read -- did you read Justice 7 Karmeier's testimony about the Illinois business round 8 table meeting that he attended?</p> <p>9 A. I read his deposition, but I don't recall 10 his test -- his testimony in that regard.</p> <p>11 Q. Do you -- so do you recall whether or not 12 his testimony about the meeting affected your analysis 13 of that meeting?</p> <p>14 A. It wouldn't change my opinion whether he 15 got the agenda or not. We're talking about a jigsaw 16 puzzle with a thousand pieces. If one piece is taken 17 away, it still doesn't change my opinion that this is 18 the Capitol Building and that's the mall and that's 19 the Lincoln Memorial, et cetera.</p> <p>20 Q. Beginning on page 13 of your report, you 21 -- you discussed Justice Karmeier's opinion in the 22 Philip Morris case.</p> <p>23 A. Yes.</p> <p>24 Q. You say that, quote, "State Farm lied to 25 the Illinois Supreme Court about its dominant role and</p>

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 massive financial support for the Karmeier campaign." 2 That's on page 16. 3 A. Forgive me, can you show -- 4 Q. Yes. 5 A. -- me where you're reading from? Page 6 16? 7 Q. The very top. 8 A. Okay. Okay. I'm with you. When you say 9 "lied," are you opining about State Farm's intent? 10 MR. COSGROVE: Object to the form of the 11 question. That's vague and ambiguous. 12 A. I think that my opinion in that regard is 13 articulated a bit more precisely in the conclusion 14 where I talk about the misrepresentations or the 15 representations that were made by State Farm to the 16 Illinois Supreme Court in the 2005 and 2011 filings. 17 In fact, I list each specific statement 18 with -- which I believe is incorrect and false. Now, 19 I don't know what their intent was. I don't know how 20 much due diligence went into actually preparing those 21 responses, but they were false, basically, based on -- 22 or let me put it this way: The overwhelming 23 evidentiary record would support the allegation that 24 they were false. 25 Q. (BY MR. SAFER) Are you opining about</p>	<p style="text-align: right;">Page 76</p> <p>1 Morris, that proof of State Farm's support for his 2 campaign bore an 'unmistakable similarity' to Philip 3 Morris and" -- 4 A. I'm sorry, sir. I don't -- where are you 5 reading from? You are on page 14? 6 Q. Yes. 7 A. Whereabouts, please? 8 Q. Whoops. I'm sorry. I'm sorry. I'm on 9 -- now I'm on page -- thank you -- page 16, note -- 10 yeah. Thank you. So page 16 -- 11 A. You threw me a curve ball. 12 MR. CLIFFORD: Hold -- hold on. He'll 13 straighten it out. 14 Q. (BY MR. SAFER) Page 16, second full 15 sentence. Right at the top. So where it says, 16 "Justice Karmeier's belief expressed in his 17 Supervisory Order" -- 18 A. Yes, thank you. 19 Q. Yes -- "that proof of State Farm's 20 support for his campaign bore an unmistakable 21 similarity to Philip Morris and was similarly 22 inadequate under "-- 23 MR. COSGROVE: Similar -- "similarly." 24 MR. SAFER: That's -- that's what I said. 25 MR. COSGROVE: It's okay. Sorry.</p>
<p style="text-align: right;">Page 75</p> <p>1 State Farm's intent? 2 A. No. 3 MR. CLIFFORD: Objection, asked and 4 answered. 5 A. No. 6 Q. (BY MR. SAFER) Now, when you say that -- 7 at the very top of 16, "dominant role," dominant in 8 relation to whom? 9 A. Dominant with respect to the entire 10 affiliated organization. Dominant with respect to 11 financing, dominant with respect to collection or -- 12 or solicitation of Judge Karmeier, dominant in terms 13 of controlling the campaign effort's advertising and 14 in-kind contributions all through the relationship 15 they had with Mr. Murnane, ICJL and Shepherd. 16 Q. Now, you said -- 17 A. Mr. Shepherd. 18 Q. Let's go back to page 14 and -- I'll wait 19 until you get there. You said that Justice Karmeier's 20 comparison of the Philip Morris case to the case in 21 Avery was misplaced, right? 22 A. I don't think I used those words, but I 23 -- the spirit, yes, I agree with. 24 Q. And you said that "Justice Karmeier's 25 belief expressed in his Supervisory Order in Philip</p>	<p style="text-align: right;">Page 77</p> <p>1 Q. (BY MR. SAFER) -- "underscores the 2 pernicious influence of State Farm's 3 misrepresentations to the court." Do you see that? 4 A. Yes. 5 Q. And you cite to the Supervisory Order at 6 page 11; is that right? 7 A. Yes. Yes. 8 Q. But Judge Karmeier, in his ruling, didn't 9 say anything about proof in either case, did he? 10 A. I'd have to review the order. 11 Q. Okay. 12 A. In order to save time, can you direct me 13 to where you're talking about? 14 MR. CLIFFORD: He will. Let's wait for a 15 question. 16 MR. COSGROVE: Thank you. Thank you, 17 Counsel. 18 (Deposition Exhibit 12 was marked.) 19 Q. (BY MR. SAFER) So do -- do you have an 20 exhibit in front of you, sir? 21 A. I do. 22 Q. And it is marked Myers 12. Could -- are 23 you familiar with that -- 24 A. Yes. 25 Q. -- exhibit? What is it?</p>

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<p>1 A. It's a Supervisory Order issued by Judge 2 Karmeier in the Philip Morris matter. 3 Q. And you've previously read this document? 4 A. I -- I have. 5 Q. And I believe you cite in Footnote 11 -- 6 from this passage that we just read, you cite to page 7 11 of -- of the Supervisory Order. 8 A. I'm there. 9 MR. CLIFFORD: See what he has to say. 10 Q. (BY MR. SAFER) Justice Karmeier did not 11 say anything about the proof in either the Avery case 12 or the Philip Morris case, did he? 13 MR. COSGROVE: I'll object to the form of 14 the question as being argumentative and to the use of 15 the ambiguous word of "proof" without a definition. 16 MR. CLIFFORD: Let me add further to 17 that. This whole line of discussion began with 18 counsel initially being mistaken about which page of 19 Mr. Myers's report he was reading from. He corrected 20 that. And we're now at page 16. You directed him to 21 Footnote 62 citing the Supervisory Order that is in 22 front of him at page 11. And if you go, however, to 23 the paragraph citing the Supervisory Order -- and I 24 don't know if you attempted to paraphrase, but it's an 25 improper paraphrase of the paragraph, with all due</p>	<p>1 from the first sentence of the first full paragraph of 2 the Supervisory Order on page 11, correct? 3 A. The first sentence -- full sentence that 4 begins, "An affidavit"? 5 Q. That begins, "In reviewing" -- 6 A. Okay. First full paragraph. Thank you. 7 "In reviewing correspondence" -- yes. 8 Q. And you're -- 9 A. I'm -- I'm using the term "proof" sort of 10 ambiguously here. You could just as easily say the 11 record of State Farm's support. I didn't mean proof 12 literally. Of course, there isn't any proof of State 13 Farm's support. 14 Q. What Justice Karmeier was comparing is 15 the contentions -- the allegations that the 16 respondents had made in the Philip Morris case, 17 correct? 18 MR. CLIFFORD: Objection to the form of 19 the question. It's argumentative. You -- you are 20 misleading the witness, with all due respect. You 21 have him on page 11. You're quoting from page 11. 22 You're ignoring the entirety of the citation, 23 specifically the very last sentence of the paragraph 24 that you referenced on page 11, and it's unfair to the 25 witness.</p>
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<p>1 respect. I think it's a confusing question. That's 2 all. 3 MR. COSGROVE: I'm confused, too. 4 MR. SAFER: Really? You're both confused 5 because -- 6 MR. COSGROVE: You don't care about my 7 confusion? 8 MR. SAFER: Because we just read the para 9 -- we just read the quote. It wasn't a paraphrase, we 10 read it. So, yes, you're both confused. I get it. 11 MR. CLIFFORD: About what the actual 12 question is. We're trying to figure out what the 13 actual question is. 14 MR. COSGROVE: When you say -- 15 MR. CLIFFORD: Let me -- 16 Q. (BY MR. SAFER) The question is -- the 17 question is Justice Karmeier, in his Supervisory 18 Order, did not say anything about the proof in either 19 Avery or -- or Philip Morris on page 11, does he? 20 A. That word is not used by Judge Karmeier. 21 Q. Well, what he's referring to is -- and 22 comparing it to Avery in the quote that you use, do 23 you -- you are quoting -- let me start again. I'm 24 sorry. 25 You are quoting on page 16 of your report</p>	<p>1 Q. (BY MR. SAFER) Do you have the question? 2 A. Again, please. 3 MR. SAFER: Could you read the question, 4 please? 5 (The last question was read back as 6 follows: "What Justice Karmeier was comparing is the 7 contentions -- the allegations that the respondents 8 had made in the Philip Morris case, correct?") 9 MR. CLIFFORD: Same objection. 10 THE DEPONENT: I -- I need to have that 11 one more time. 12 Q. (BY MR. SAFER) So let me -- 13 A. Can you clarify? 14 Q. Let me see if -- yeah. 15 A. Thank you. 16 Q. What -- what Justice Karmeier was 17 comparing when he said in -- in your material, that 18 is, "unmistakably similar," is the allegations that 19 are made in the Philip Morris case to the materials 20 filed by the plaintiff in Avery, correct? 21 A. I'm really kind of confused by the 22 question. And I think you're asking me to form a 23 legal conclusion here, but I'm struggling through 24 Karmeier's language because he used the term "proof" 25 himself -- or "proved" in that sentence at the bottom</p>

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<p>1 of that paragraph, so --</p> <p>2 Q. Yes, Mr. Clifford has -- has referred you</p> <p>3 to --</p> <p>4 A. Yes.</p> <p>5 Q. -- something that is -- is that what you</p> <p>6 were quoting in your report? Were you quoting the</p> <p>7 last sentence of -- of this -- of -- on page 11 to</p> <p>8 which Mr. Clifford referred you, sir?</p> <p>9 MR. COSGROVE: I'd like to place an</p> <p>10 objection on the record as to the statement that pre</p> <p>11 -- the preamble that was before the question that was</p> <p>12 asked and move to strike, and ask that a new question</p> <p>13 be posed to the witness.</p> <p>14 A. I'm thoroughly confused because you say</p> <p>15 I'm quoting on page 16. I don't see quoting on the</p> <p>16 word "proof" or --</p> <p>17 Q. (BY MR. SAFER) No. There are no quotes</p> <p>18 on the word "proof."</p> <p>19 A. Well, what was your -- can I have --</p> <p>20 Q. The quotes --</p> <p>21 A. -- your question back?</p> <p>22 Q. The quotes are -- very simple, sir. The</p> <p>23 second sentence, do you see on page 16 when you say,</p> <p>24 "Justice Karmeier's belief expressed in his</p> <p>25 Supervisory Order in Philip Morris that proof of State</p>	<p>1 first full paragraph of Justice Karmeier's opinion on</p> <p>2 page 11, correct?"</p> <p>3 Answer: "I don't know that that's</p> <p>4 correct or not. I don't recall what I was thinking</p> <p>5 when I wrote that, but I can tell you what --")</p> <p>6 MR. CLIFFORD: And then he was</p> <p>7 interrupted.</p> <p>8 A. You -- you said I was referring in the</p> <p>9 first -- were you talking about page 16 or page 11 of</p> <p>10 the Supervisory Order or page 16 of my report? I</p> <p>11 don't understand.</p> <p>12 Q. (BY MR. SAFER) On page 16 of your</p> <p>13 report.</p> <p>14 A. Yes.</p> <p>15 Q. Do you have page 16 of your report --</p> <p>16 A. Yes.</p> <p>17 Q. -- in front of you?</p> <p>18 A. I do.</p> <p>19 Q. Do you see the sentence that begins,</p> <p>20 "Justice Karmeier's belief"?</p> <p>21 A. I do.</p> <p>22 Q. Do you see a sentence that has within it,</p> <p>23 the quote "unmistakable similarity"?</p> <p>24 A. Right. I do --</p> <p>25 Q. Does --</p>
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<p>1 Farm's support for his campaign bore an 'unmistakable</p> <p>2 similarity' to Philip Morris"? Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. That -- you were referring to the first</p> <p>5 full paragraph -- to the first sentence of the first</p> <p>6 full paragraph of Justice Karmeier's opinion on page</p> <p>7 11, correct?</p> <p>8 A. I don't know that that's correct or not.</p> <p>9 I don't recall what I was thinking when I wrote that,</p> <p>10 but I can tell you what --</p> <p>11 Q. Where did the term "unmistakable</p> <p>12 similarity" appear?</p> <p>13 MR. CLIFFORD: Objection to that</p> <p>14 question. The witness was interrupted and not allowed</p> <p>15 to finish his last answer before he was interrupted by</p> <p>16 you.</p> <p>17 MR. COSGROVE: Could we have the last</p> <p>18 question read back and the portion of his answer that</p> <p>19 he began with so that the witness can recall where he</p> <p>20 was in his response potentially before he was</p> <p>21 interrupted?</p> <p>22 (The last question and answer were read</p> <p>23 back as follows:</p> <p>24 Question: "You were referring to the</p> <p>25 first full paragraph -- to the first sentence of the</p>	<p>1 A. -- see that.</p> <p>2 Q. Does that refer to page 11 of Justice</p> <p>3 Karmeier's Supervisory Order when he says, "In</p> <p>4 reviewing respondents' contentions, I cannot help but</p> <p>5 notice that they bear an unmistakably -- "unmistakable</p> <p>6 similarity to materials filed by plaintiffs in Avery"?</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do. Thank you.</p> <p>9 Q. Is that where the quote was taken from?</p> <p>10 A. I -- I assume so. I don't recall what --</p> <p>11 what I was thinking at the time, but it makes sense.</p> <p>12 Q. And Justice Karmeier's statement on</p> <p>13 page 11 regards the respondent, that is, Philip</p> <p>14 Morris's contentions, correct?</p> <p>15 MR. COSGROVE: Form and foundation.</p> <p>16 A. I -- how -- where -- how are you</p> <p>17 developing that logic --</p> <p>18 Q. (BY MR. SAFER) It says --</p> <p>19 A. "In reviewing respondents' contentions."</p> <p>20 Okay. I'm with you on that. Yes, I agree.</p> <p>21 Q. (BY MR. SAFER) Did you analyze the</p> <p>22 contentions made by -- in the Philip Morris case when</p> <p>23 you were -- when you were evaluating Justice</p> <p>24 Karmeier's comparison of the two cases in your report?</p> <p>25 A. Again?</p>

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<p style="text-align: right;">Page 86</p> <p>1 (The last question was read back as 2 follows: "Did you analyze the contentions made in the 3 Philip Morris case when you were evaluating Justice 4 Karameier's comparison of the two cases in your 5 report?") 6 MR. COSGROVE: I'm just going to place an 7 objection as the question is vague. There's a -- this 8 is, to be as concise as possible, a 16-page 9 supervisory order that has multiple contentions. 10 Which specific contention are you suggesting or 11 questioning? The premise of your question is unclear. 12 MR. SAFER: As -- you know, we've 13 tolerated lots of speaking objections. This is 14 important. If you want to say vague and ambiguous, 15 that's fine. 16 A. I -- 17 MR. CLIFFORD: Well, wait a minute. To 18 be clear here, we certainly are permitted -- we 19 certainly are permitted to make neutral comments, 20 whether you call them speaking, or otherwise, as a 21 pejorative design to communicate something to the 22 witness. So, I mean, go ahead and give your 23 instruction to us that we can say vague and ambiguous; 24 but to be clear, if the record warrants a neutral 25 comment about the nature of that objection, we are</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. (BY MR. SAFER) Sir -- okay. You -- you 2 -- let's go back to your report. 3 MR. CLIFFORD: Let him finish the line of 4 questioning. 5 THE DEPONENT: Okay. 6 Q. (BY MR. SAFER) And on page 14 -- 7 A. 14. 16 or 14? 8 Q. 14. And you -- you begin the discussion 9 on page 14 of the allegations in the Philip Morris 10 case, correct? 11 A. Where is that? On the first paragraph? 12 Q. First full paragraph. 13 A. Okay. 14 Q. Well -- 15 MR. CLIFFORD: Second full paragraph. 16 Q. (BY MR. SAFER) Well, you actually begin 17 it in -- on page 13. 18 MR. COSGROVE: What's the question? 19 MR. CLIFFORD: He's okay. 20 A. Okay. Page 13, last paragraph? 21 MR. CLIFFORD: Yes. 22 A. Would you like me to review that? 23 Q. (BY MR. SAFER) The question is you begin 24 the discussion of the Philip Morris case there, 25 correct?</p>
<p style="text-align: right;">Page 87</p> <p>1 entitled to make that, Counsel. 2 Q. (BY MR. SAFER) Do you have the question 3 in mind, sir? 4 A. No. 5 MR. SAFER: Can you reread the question, 6 please? 7 (The last question was read back as 8 follows: "Did you analyze the contentions made in the 9 Philip Morris case when you were evaluating Justice 10 Karameier's comparison of the two cases in your 11 report?") 12 MR. COSGROVE: Same objection that was 13 previously made on the record as it relates to the 14 vague and ambiguous terms in the premise of the 15 question. 16 A. And all I know is I'm sitting here with a 17 16-page legal opinion from Judge Karameier that I 18 haven't reviewed in probably months, and you're asking 19 me what contentions he was talking about. I don't -- 20 I don't even understand where you're going with the 21 question. What is it that you want me to admit to? 22 Maybe I'll just do that. 23 MR. CLIFFORD: No. 24 A. I don't -- I don't get it. There's -- 25 there's nothing --</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Yes. 2 Q. And then on page 14, on the second full 3 paragraph, you say, "With respect to allegations, made 4 by the smokers and their families, that Philip Morris 5 funded contributions through the Illinois Chamber of 6 Commerce, Justice Karameier reasoned that the alleged 7 contribution amount was only \$20,000 or .4 percent of 8 the total of 4.8 million in contributions to his 9 campaign." 10 Do you see that? 11 A. Yes. 12 Q. And you then say, "Justice Karameier 13 compared" -- 14 A. Wait, wait. 15 MR. CLIFFORD: Next paragraph. 16 Q. (BY MR. SAFER) Next para -- 17 A. Do you skip down? 18 Q. Next paragraph. 19 A. Okay. 20 Q. "Justice Karameier compared the smokers 21 case to the case made by the Avery plaintiffs in 22 seeking his recusal for receiving contributions from 23 State Farm." 24 Do you see that? 25 A. Yes.</p>

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<p style="text-align: right;">Page 90</p> <p>1 Q. Okay. And you say at the very bottom of 2 that page, page 14, "That the Judge would consider -- 3 A. Wait, wait. Very bottom. I don't see 4 anything -- 5 MR. CLIFFORD: No, no, at the end of 6 the -- at the end of the paragraph on -- the last 7 paragraph on 14. 8 MR. COSGROVE: Three words. 9 MR. CLIFFORD: Three words, "That the 10 judge." 11 THE DEPONENT: Okay. 12 MR. CLIFFORD: And it goes over to the 13 next page. 14 THE DEPONENT: Thank you. 15 Q. (BY MR. SAFER) -- "would consider the 16 substantial contributions made by State Farm to be 17 comparable to the relatively minor contributions made 18 by Philip Morris underscores the impact of 19 State Farm's for verifications." 20 A. Yes. 21 Q. Do you see that? 22 A. Yes. 23 Q. Now, let's get back to what -- to the 24 opinion. What Justice Karmeier was comparing were the 25 contentions of the respondent in the Philip Morris</p>	<p style="text-align: right;">Page 92</p> <p>1 A. Yes, sir. 2 Q. Have you ever seen that document before? 3 A. Yes. 4 Q. When did you see it? 5 A. Probably two weeks ago. 6 Q. How did you come across it? 7 A. Hold on a second. Let me make sure that 8 I've identified -- oh, I'm sorry. Excuse me. I 9 thought this was the State Farm motion. No, I haven't 10 seen that document before. 11 Q. So you did not review what the 12 respondents' contentions were in the Philip Morris 13 case? 14 A. No. Not -- not from this document here, 15 no. 16 Q. Okay. 17 A. I don't recall doing that, anyway. 18 Q. Looking at page 2 of the numbered page 2 19 at the bottom -- 20 A. I'm sorry. Are you talking about the 21 Exhibit 13? 22 Q. Yes. 23 A. Numbered page 2. Okay. I'm with you. 24 Q. Okay. Do you see where it says at -- at 25 the bottom, the last full sentence of the page, "Over</p>
<p style="text-align: right;">Page 91</p> <p>1 case, correct? 2 A. Yes. 3 Q. And my question is did you review the 4 contentions that were made by the plaintiffs in the 5 Philip Morris case before critiquing Justice 6 Karmeier's comparison? 7 A. No. 8 THE VIDEOGRAPHER: Counsel, five minutes 9 until media change. 10 MR. SAFER: Okay. All right. Well, why 11 don't you change then. 12 THE VIDEOGRAPHER: This is the end of 13 Media No. 1 in the deposition of Thomas Myers, CPA. 14 Going off the record. The time is 12:08. 15 (Recess taken, 12:08 p.m. 12:10 p.m.) 16 THE VIDEOGRAPHER: We are back on the 17 record. The time is 12:10. This is the beginning of 18 Media No. 2 in the deposition of Thomas Myers, CPA. 19 (Deposition Exhibit 13 was marked.) 20 Q. (BY MR. SAFER) I've marked what is Myers 21 Exhibit 13, which is a pleading filed by 22 Plaintiff-Appellees' Memorandum in Support Of Motion 23 For Recusal Or Disqualification dated November 17, 24 2015. 25 Do you see that document?</p>	<p style="text-align: right;">Page 93</p> <p>1 the course of the following year, Justice Karmeier's 2 campaign would spend 4.8 million" -- it's got an exact 3 figure -- 4 A. Right. 5 Q. -- "to secure his election. Of that 6 amount, \$3,396,457.79, came directly or indirectly 7 from Philip Morris, its affiliates, and its supporters 8 before the court that Justice Meier" -- "Karmeier 9 hoped to join." 10 Do you see that? 11 A. Yes. 12 Q. And this is in the Price v. Philip Morris 13 case, correct? 14 A. Okay. Yes. 15 Q. If the plaintiffs in this case are 16 correct, then your conclusion that State Farm is 17 responsible for contributing \$3.5 million to Justice 18 Karmeier campaign is wrong? 19 MR. CLIFFORD: Objection, argumentative, 20 foundation, assumes facts not in evidence nor will 21 ever be in evidence. And it's contrary to the facts 22 that are in evidence. 23 A. Again. 24 MR. SAFER: Could you read the question 25 back, please?</p>

24 (Pages 90 to 93)

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<p style="text-align: right;">Page 94</p> <p>1 (The last question was read back as 2 follows: "If the plaintiffs in this case are correct, 3 then your conclusion that State Farm is responsible 4 for contributing \$3.5 million to Justice Karmeier 5 campaign is wrong?") 6 MR. CLIFFORD: Same objection. 7 A. Obviously, you can't have both; but the 8 evidentiary record that I examined points to explicit 9 proof that Philip Morris did not fund the Karmeier 10 campaign as articulated -- I think it's in my report. 11 If not, I can expound on it. 12 Q. (BY MR. SAFER) The same dollars cannot 13 be contributed by two different entities, correct? 14 MR. CLIFFORD: Objection. 15 A. Absolutely. 16 MR. CLIFFORD: Argumentative. 17 Q. (BY MR. SAFER) The -- if we look at page 18 3, that first full paragraph -- or the only full 19 paragraph -- the plaintiffs in the Philip Morris case 20 said that -- claim that the over \$2 million the U.S. 21 Chamber contributed to the Illinois Republican party 22 came from Philip Morris. Do you see that much? 23 A. Yes. 24 Q. And those are the same dollars that you 25 attribute to State Farm --</p>	<p style="text-align: right;">Page 96</p> <p>1 Morris's role at the U.S. Chamber of Commerce? 2 A. No. 3 Q. Have you analyzed Philip Morris's role at 4 ILR? 5 A. As I just said, I've asked and answered 6 -- that's already been asked and answered. I said I 7 examined extensively the State Farm evidentiary 8 record. 9 I never looked at Philip Morris. I never 10 had that available to me. My opinion is based on my 11 exhaustive, comprehensive examination of the -- of the 12 State Farm record. And therefore, I would disagree on 13 that basis with the Philip Morris plaintiffs. 14 Q. Have you analyzed Philip Morris's role at 15 ILR? 16 MR. CLIFFORD: Objection, asked and 17 answered. He just gave you the answer to that 18 question. 19 A. I haven't examined Philip Morris's role 20 in anything. 21 Q. (BY MR. SAFER) How much -- 22 A. Other than on that spreadsheet. 23 Q. How much did Philip Morris contribute to 24 the United States Chamber of Commerce in 2003 and 25 2004?</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Right. 2 Q. -- correct? 3 MR. CLIFFORD: Objection, argumentative, 4 foundation, assumes facts not in evidence nor will 5 ever be in evidence and the witness has already 6 answered this question. 7 A. It says that, but I did an extensive 8 analysis of the evidentiary record and State Farm. 9 And I'm basing my opinion on what unequivocally -- on 10 what I saw. And I explain explicitly what I relied on 11 in my report. 12 I know nothing about Philip Morris's 13 claim other than to say that there is a spreadsheet 14 that was produced by Ed Murnane in or around September 15 of 2004 where he purported to list all of the 16 contributors to the Karmeier campaign. And Altria, 17 the holding company for Philip Morris, was one of 18 those contributors. And it said that they would not 19 contribute to the Karmeier campaign because they had a 20 conflict of interest. They had a case in front of the 21 Supreme Court. That's explicit evidence. I know 22 nothing about what these guys -- what the plaintiffs 23 in Philip Morris are arguing. I strenuously disagree 24 with their argument. 25 Q. (BY MR. SAFER) Have you analyzed Philip</p>	<p style="text-align: right;">Page 97</p> <p>1 MR. CLIFFORD: Objection, Counsel. Asked 2 and answered, assuming facts not in evidence nor 3 provided to the witness, foundation, repeatedly asked 4 and answered. 5 A. I haven't examined anything regarding 6 Philip Morris other than that spreadsheet from Ed 7 Murnane. 8 Q. (BY MR. SAFER) So you do not know how 9 much Philip Morris contributed to any of the 10 affiliated organizations described in your report in 11 2003 or 2004, correct? 12 MR. CLIFFORD: Objection, asked and 13 answered, argumentative. 14 A. That's correct. 15 Q. (BY MR. SAFER) Do you know whether 16 Philip Morris requested that the U.S. Chamber or ILR 17 contributed money to the Karmeier campaign? 18 MR. CLIFFORD: Objection, argumentative, 19 assuming facts in evidence. 20 A. Same answer, no. I mean, I said that I 21 haven't examined anything relating to Philip Morris's 22 conduct. 23 Q. (BY MR. SAFER) Did you evaluate the 24 influence of any other company with the U.S. Chamber 25 of Commerce?</p>

25 (Pages 94 to 97)

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<p style="text-align: right;">Page 98</p> <p>1 A. In the context of the Karmeier --</p> <p>2 Karmeier campaign?</p> <p>3 Q. Yes.</p> <p>4 A. I did. I wanted to see who the corporate</p> <p>5 contributors were to the Karmeier campaign and if any</p> <p>6 of them had a billion-dollar lawsuit that was pending</p> <p>7 in the Illinois Supreme Court.</p> <p>8 Q. And what did you find?</p> <p>9 A. There was no one like State Farm. State</p> <p>10 Farm was the -- was the material contributor to the</p> <p>11 Karmeier campaign, and they had a huge axe to grind in</p> <p>12 terms of the billion-dollar judgment that was coming</p> <p>13 up before the Illinois Supreme Court where Karmeier</p> <p>14 would be seated, should he win.</p> <p>15 Q. What was the judgment in the Price case</p> <p>16 against Philip Morris?</p> <p>17 A. I don't know.</p> <p>18 Q. Was it \$10 billion?</p> <p>19 A. It has no -- it has no bearing on my</p> <p>20 opinion about State Farm's conduct.</p> <p>21 Q. I don't understand. Let me start again.</p> <p>22 You have just said that you analyzed the other donors</p> <p>23 to see whether any of them had a billion-dollar</p> <p>24 verdict pending at the time.</p> <p>25 A. And I said that Philip Morris was not a</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I think he represented -- oh, sorry.</p> <p>2 MR. COSGROVE: I have a foundation</p> <p>3 objection as to the vagueness of the time frame.</p> <p>4 Q. (BY MR. SAFER) Okay. How many -- during</p> <p>5 the 2003/2004 time period, how many companies did Tom</p> <p>6 Donohue meet with?</p> <p>7 A. I think he met with something like 200;</p> <p>8 but only one of them got the Sheehan award, the</p> <p>9 president.</p> <p>10 Q. Were there any other awards that -- that</p> <p>11 the chamber gave?</p> <p>12 A. I'm not aware of that.</p> <p>13 Q. Did you analyze whether there were any</p> <p>14 other awards?</p> <p>15 A. I simply analyzed the commentary on the</p> <p>16 Sheehan award where they purported that Mr. Rust was</p> <p>17 the -- I can't -- if you had the -- the Agnes Warfield</p> <p>18 document, I could tell you exactly what it says. But</p> <p>19 Ed Shee -- or Ed Rust was, like, the No. 1 fan -- Tom</p> <p>20 Donohue was the No. 1 fan of Ed Rust because of his</p> <p>21 activity in legal reform and --</p> <p>22 MR. SAFER: I move to strike that answer</p> <p>23 as nonresponsive.</p> <p>24 MR. CLIFFORD: To which we would object.</p> <p>25 Q. (BY MR. SAFER) The question is did you</p>
<p style="text-align: right;">Page 99</p> <p>1 donor. They refused to contribute because they had</p> <p>2 had a conflict of interest with the Supreme Court. So</p> <p>3 they weren't -- I didn't consider them -- I was aware</p> <p>4 that Philip Morris had a substantial judgment against</p> <p>5 them in Illinois that was pending before the Supreme</p> <p>6 Court.</p> <p>7 Q. But Philip Morris was a donor to the U.S.</p> <p>8 Chamber of Commerce, correct?</p> <p>9 A. I've already answered that question</p> <p>10 probably three times.</p> <p>11 Q. Okay. Other than to see whether or not</p> <p>12 anybody had verdicts, did you evaluate the influence</p> <p>13 of any other company with the U.S. Chamber of</p> <p>14 Commerce?</p> <p>15 A. No, I had no access to those records.</p> <p>16 Q. Did you evaluate the influence of any</p> <p>17 other company with ILR?</p> <p>18 A. No, sir.</p> <p>19 Q. Did you evaluate the influence of any</p> <p>20 other company with regard to any of the affiliated</p> <p>21 organizations in your report in 2003 and 2004?</p> <p>22 A. Not that I recall.</p> <p>23 Q. How many companies does Tom Donohue meet</p> <p>24 with a year?</p> <p>25 MR. COSGROVE: Foundation. When?</p>	<p style="text-align: right;">Page 101</p> <p>1 analyze any other awards that the Chamber or ILR gave</p> <p>2 other than the Sheehan award?</p> <p>3 A. No, I didn't have access to that</p> <p>4 information.</p> <p>5 Q. On page 4 of Myers Exhibit 12 --</p> <p>6 A. I've got 13.</p> <p>7 Q. (BY MR. SAFER) 13? Thank you.</p> <p>8 MR. CLIFFORD: Wait, wait. Are you</p> <p>9 talking about the --</p> <p>10 MR. SAFER: 13.</p> <p>11 Q. (BY MR. SAFER) It -- the plaintiffs in</p> <p>12 the Price case also assert that the Illinois Civil</p> <p>13 Justice League and Ed Murnane's conduct was at the</p> <p>14 behest of Philip Morris. Do you see that?</p> <p>15 A. Give me a chance to review it, please.</p> <p>16 Q. Sure.</p> <p>17 MR. CLIFFORD: Are you quoting, Counsel?</p> <p>18 MR. SAFER: No.</p> <p>19 MR. CLIFFORD: Well, then, which</p> <p>20 paragraph on page 4 are you referring to?</p> <p>21 MR. SAFER: The first --</p> <p>22 MR. CLIFFORD: The entirety?</p> <p>23 MR. SAFER: The first full paragraph.</p> <p>24 MR. CLIFFORD: The first full paragraph.</p> <p>25 Okay. Fair enough.</p>

26 (Pages 98 to 101)

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<p style="text-align: right;">Page 102</p> <p>1 A. I have had a chance to review it.</p> <p>2 Q. (BY MR. SAFER) Okay. Did you examine</p> <p>3 Philip Morris's influence in the Illinois Justice</p> <p>4 League?</p> <p>5 A. Sure. I looked at the D-2 that was filed</p> <p>6 by its PAC -- JUSTPAC, and there was no reference to</p> <p>7 Philip Morris.</p> <p>8 Q. Did you do anything else to examine</p> <p>9 Philip Morris's influence over the Illinois Civil</p> <p>10 Justice League?</p> <p>11 MR. CLIFFORD: Objection, assuming facts</p> <p>12 not in evidence, foundation, asked and answered.</p> <p>13 A. No.</p> <p>14 Q. (BY MR. SAFER) Did you study contacts</p> <p>15 between Philip Morris and the Illinois Civil Justice</p> <p>16 League?</p> <p>17 A. No.</p> <p>18 Q. Did you study contacts between Philip</p> <p>19 Morris and Ed Murnane?</p> <p>20 A. As I've said at least half a dozen times,</p> <p>21 I think, I didn't examine anything with regard to</p> <p>22 Philip Morris's conduct regarding -- anything other</p> <p>23 than to note that their holding company declined to</p> <p>24 contribute to ICJL or the Karmeier campaign because</p> <p>25 they had a conflict of interest. That was</p>	<p style="text-align: right;">Page 104</p> <p>1 if they went to Philip Morris, I wouldn't know.</p> <p>2 Q. Well, there was a -- a distribution list</p> <p>3 on a number of --</p> <p>4 A. I don't.</p> <p>5 Q. -- of the documents that are included in</p> <p>6 your report and referenced in your report.</p> <p>7 A. Fair enough. I don't recall seeing that.</p> <p>8 Q. And you don't recall -- do you recall</p> <p>9 seeing the name Derek Crawford with an Altria email</p> <p>10 address on those distributions?</p> <p>11 A. No.</p> <p>12 Q. The plaintiffs in the Price -- Price case</p> <p>13 go on at page 4 and 5 to assert that ATRA's</p> <p>14 contributions should be attributable to Philip Morris.</p> <p>15 MR. CLIFFORD: Is that a question?</p> <p>16 MR. SAFER: Well, I'm letting -- I'm</p> <p>17 letting him catch up to me.</p> <p>18 THE DEPONENT: You're on page 4?</p> <p>19 MR. SAFER: Yeah, bottom of page 4 and</p> <p>20 then on to page 5.</p> <p>21 THE DEPONENT: Okay.</p> <p>22 Q. (BY MR. SAFER) And my question will be,</p> <p>23 so you have it in mind, those are the same dollars</p> <p>24 that you attribute to State Farm?</p> <p>25 A. Right. Will you give me a --</p>
<p style="text-align: right;">Page 103</p> <p>1 Mr. Murnane's spreadsheet. That was his comment.</p> <p>2 Those are his words. So that -- all of that</p> <p>3 contradicts what you're telling me about here or what</p> <p>4 you're pointing out to me here.</p> <p>5 Q. Did you review emails from Ed Murnane</p> <p>6 that provided updates on the Karmeier/Maag election</p> <p>7 sent directly to Altria representatives?</p> <p>8 MR. CLIFFORD: Objection, foundation,</p> <p>9 argumentative. You don't need to raise your voice.</p> <p>10 Assuming facts not in evidence.</p> <p>11 MR. SAFER: Did you think that I had</p> <p>12 raised my voice?</p> <p>13 THE DEPONENT: No, I'm not offended. But</p> <p>14 I appreciate the support.</p> <p>15 Q. (BY MR. SAFER) Do you have the question?</p> <p>16 A. We're all buddies. I'm sorry. Yeah.</p> <p>17 You know, but what -- what counsel is -- is alluding</p> <p>18 to is the fact that, yes, I have said so many times I</p> <p>19 never looked at anything specifically regarding Philip</p> <p>20 Morris. And he's exactly right. But I'm not</p> <p>21 offended. Continue. Take as much time as you want.</p> <p>22 Q. Thank you.</p> <p>23 A. May I say one qualification to that</p> <p>24 answer, please. I did want -- I did review numerous</p> <p>25 weekly alerts, and so forth, from Mr. Murnane. Now,</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Yes.</p> <p>2 A. -- a second to review this please? Thank</p> <p>3 you.</p> <p>4 Q. All the time you want.</p> <p>5 A. Did you want me to continue?</p> <p>6 MR. CLIFFORD: Review the -- what he</p> <p>7 directed you to do, and then he'll ask a question.</p> <p>8 A. Well, I'm done reading.</p> <p>9 Q. (BY MR. SAFER) So the questions was</p> <p>10 those are the same dollars that you attribute to State</p> <p>11 Farm?</p> <p>12 MR. CLIFFORD: Objection, argumentative,</p> <p>13 form, foundation, assuming facts not in evidence.</p> <p>14 MR. COSGROVE: Asked and answered.</p> <p>15 MR. CLIFFORD: Asked and answered.</p> <p>16 MR. CANCELA: You even asked and answered</p> <p>17 your tag team objections there.</p> <p>18 A. They would have to be the same, \$415,000.</p> <p>19 Q. (BY MR. SAFER) Did you evaluate Philip</p> <p>20 Morris's contributions to ATRA?</p> <p>21 MR. CLIFFORD: Objection. Repeatedly</p> <p>22 asked and answered.</p> <p>23 A. No.</p> <p>24 Q. (BY MR. SAFER) Did you evaluate Philip</p> <p>25 Morris's influence at ATRA?</p>

27 (Pages 102 to 105)

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<p style="text-align: right;">Page 106</p> <p>1 A. No. But I will say, you know, this, 2 again, is a jigsaw puzzle situation. But I saw 3 specific instances of ATRA working hand in hand with 4 State Farm to get contributions to the Karneier 5 campaign and what I would characterize as conduct that 6 was contrary to the Illinois campaign law that -- that 7 Justice Karneier referred to. 8 In other words, they helped State Farm 9 obscure their contribution. And they would take money 10 earmarked -- earmarked for Karneier and send it over 11 to the Illinois Chamber of Commerce, the Illinois 12 Chamber of Commerce PAC, in a roundabout way, which is 13 exactly what Judge Karneier, in my view, argued was 14 illegal. 15 So they did this on behalf of State Farm. 16 I never saw any activity that benefited Philip Morris. 17 But, again, I didn't look for it. 18 MR. SAFER: I move to strike the answer 19 after "no." 20 MR. CLIFFORD: Object -- excuse me. 21 Objection, completely responsive, invited answer. 22 And, therefore, waived in terms of any motion to 23 strike or objection. 24 Q. (BY MR. SAFER) Do you know whether 25 Philip Morris directed ATRA to contribute money to</p>	<p style="text-align: right;">Page 108</p> <p>1 A. Yes. 2 Q. That's a summary of the law as it exists 3 today, correct? 4 A. I'm not sure. 5 Q. Do you -- 6 A. I believe it's from 2004, but I couldn't 7 confirm that. 8 Q. This -- do you have a date for this guide 9 to campaign disclosure? 10 A. Well, let's see. It says -- no, I don't 11 have a date on it. 12 Q. Okay. Well, you are aware that the 13 Illinois campaign finance laws have changed 14 dramatically from 2004 to 2015, correct? 15 MR. CLIFFORD: Objection, form, 16 foundation, argumentative, assumes fact not in 17 evidence. 18 A. I'm aware there has been some change. 19 Q. (BY MR. SAFER) Are you aware that the 20 definition of electioneering communication under 21 Section 9-1.14 has changed since 2004? 22 MR. CLIFFORD: Same objection. 23 A. I'm not aware of that. 24 Q. (BY MR. SAFER) Are you aware that the 25 definitions of expenditures and contributions have</p>
<p style="text-align: right;">Page 107</p> <p>1 Justice Karneier? 2 A. No. 3 Q. Do you know whether Philip Morris 4 directed ILR to contribute money to Justice Karneier? 5 A. As I said before, I didn't investigate 6 the activity of Philip Morris, nor did I have the 7 record of available to me to ascertain exactly what 8 their conduct was with respect to any of the questions 9 you've asked me previously. 10 MR. SAFER: This is probably a good time 11 as any to break. 12 THE VIDEOGRAPHER: Going off the record 13 the time is 12:31. 14 (Recess taken, 12:31 p.m. to 1:31 p.m.) 15 THE VIDEOGRAPHER: We are back at record. 16 The time is 1:32. 17 Q. (BY MR. SAFER) Good afternoon, 18 Mr. Myers. 19 A. Good afternoon. 20 Q. Now, you are not an expert in Illinois 21 campaign disclosure laws, are you? 22 A. No, I'm not. 23 Q. You did reference earlier that on page 24 17, you cite a -- a summary of a part of the law. Do 25 -- and I'll just let you turn to page 17 for a moment.</p>	<p style="text-align: right;">Page 109</p> <p>1 changed since 2004? 2 MR. CLIFFORD: Objection, form, 3 foundation, assumes fact not in evidence. 4 A. No. 5 Q. (BY MR. SAFER) Do you -- in your report, 6 you cite this summary that says under little No. 3 -- 7 A. I'm sorry. Where are you? 8 Q. Yeah, I'm trying to say -- in the 9 indented paragraph little No. 3 -- 10 A. Yes, I'm with you. Thank you. 11 Q. Okay. Where it says, "Have made 12 independent expenditures in excess of 5,000." 13 Do you see that? 14 A. Yes. 15 Q. Were you aware that the term "independent 16 expenditure" does not appear in the Illinois election 17 law as it existed in 2004? 18 MR. CLIFFORD: Objection, foundation, 19 assumes facts not in evidence. 20 A. No. 21 Q. (BY MR. SAFER) Were you aware that 22 expenditures could have been made on behalf of a 23 candidate that did not have to be disclosed in 2004, 24 but would have to be disclosed under the present law? 25 MR. CLIFFORD: Objection, foundation,</p>

28 (Pages 106 to 109)

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<p>1 assumes facts not in evidence, calls for a legal 2 conclusion.</p> <p>3 A. I didn't study the changes between the 4 current law and the 2004 law, if any.</p> <p>5 Q. (BY MR. SAFER) Were you aware that 6 whether an expenditure, as that term was defined in 7 Section 9-1.5 of the Illinois campaign finance laws, 8 were evaluated regardless of whether the communication 9 was made in concert or cooperation with or at the 10 request, suggestion or knowledge of the candidate?</p> <p>11 MR. CLIFFORD: Objection. 12 MR. COSGROVE: Objection.</p> <p>13 A. Can I have that back, please? 14 (The last question was read back as 15 follows: "Were you aware that whether expenditure, as 16 that term was defined in Section 9-1.5 of the Illinois 17 campaign finance laws, were evaluated regardless of 18 whether the communication was made in concert or 19 cooperation with or at the request suggestion or 20 knowledge of the candidate?")</p> <p>21 MR. COSGROVE: I'd like to continue my 22 objection preliminarily as to the form and compound 23 nature of the question. Further, it is an incomplete 24 hypothetical. It assumes facts not in evidence, and 25 it lacks foundation.</p>	<p>1 and so forth, of the subtleties of the -- or the 2 difference between 2004 and current contemporary 3 campaign disclosure requirements. I've never parsed 4 that definition.</p> <p>5 Q. (BY MR. SAFER) Yeah, and you're -- 6 you're not opining as to whether anybody violated -- 7 A. No. 8 Q. I'm sorry? 9 A. Forgive me. 10 Q. That's okay. All right. You're not 11 opining as to whether anybody violated any no 12 coordination rules for political action committees? 13 A. No. 14 Q. You -- you, again, talk about the 15 campaign disclosure laws when you talk about the 16 Illinois coalition for jobs, growth and prosperity. 17 And I'm looking at page 51 now of your report. 18 A. Okay. 19 Q. And you -- you first talk about a -- a 20 memo from Mr. Shepherd to -- to Mr. Rust. Do you see 21 that? 22 A. Yes, I do. 23 Q. Okay. And then you say -- in the next 24 paragraph on the third sentence, you say, 25 "Mr. Shepherd appears to have been well aware that</p>
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<p>1 A. I thought it was a bit compound, too. I 2 didn't really get your gist on it. Can we --</p> <p>3 Q. (BY MR. SAFER) Really? That's what this 4 -- okay. What I'm doing is reading to you from 5 Section 9 -- so that there are no secrets -- 9-1.5 as 6 it existed in -- 7 A. In 2000 -- 8 Q. -- in 2004. So -- so the -- then having 9 clued into the predicate, my question is, were you 10 aware that an expenditure, which is defined by 9-1.5, 11 of the Illinois campaign finance laws in 2004 were 12 evaluated "regardless of whether the communication is 13 made in concert or cooperation with or at the request, 14 suggestion or knowledge of the candidate"? 15 MR. CLIFFORD: Same objection. 16 A. I wasn't aware of that exact language. 17 Q. (BY MR. SAFER) What no coordination 18 rules existed between campaigns and PACs under 19 Illinois campaign finance law as that law existed in 20 2004? 21 MR. CLIFFORD: Objection, asked and 22 answered, the witness has answered your question 23 pertaining to knowledge and expertise on this subject 24 matter. It's an improper question. 25 A. I'm not aware of the -- the innuendos,</p>	<p>1 State Farm's contribution to the IJC might be 2 considered political, which would require disclosure." 3 Do you see that? 4 A. Yes. 5 Q. Are -- where in the campaign finance laws 6 is the term "political" defined? 7 A. I think that's a loose use of that term 8 on my part to imply expenditure, a political 9 expenditure. 10 Q. Okay. And expenditure, at least in 2004, 11 was -- had a reference to electioneering 12 communication; is that right? 13 MR. CLIFFORD: Objection, argumentative, 14 foundation, misleading. 15 A. As I said before, I'm not an expert on 16 the Illinois campaign disclosure laws, and I'm not 17 aware of any subtle changes between 2004 and the 18 current. 19 Q. (BY MR. SAFER) You -- you testified 20 earlier and you spoke in here about the sponsoring 21 entity. 22 A. Yes. 23 Q. What is the significance of -- of being a 24 sponsoring entity under Illinois campaign finance 25 laws?</p>

29 (Pages 110 to 113)

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<p style="text-align: right;">Page 114</p> <p>1 A. Well, as I understand it, it requires 2 disclosure in association with the PAC or the 3 committee that the -- where the sponsoring entity 4 designation resulted. But the reason why I focused on 5 it wasn't simply to parse the definition of sponsoring 6 entity. I wanted to feature and acknowledge the fact 7 that -- that Ed Murnane had sent this analysis, this 8 spreadsheet analysis to Engstrom of the U.S. Chamber 9 where it was clear that he was coordinating all of the 10 campaign -- of what I designated as affiliated 11 organizations in my report. And he was orchestrating 12 them such that none of them would have to deal with 13 the sponsoring entity categorization.</p> <p>14 And -- and -- I'm not so concerned about 15 whether -- what the Illinois requirement is as I am 16 with the fact that Murnane was -- was orchestrating 17 and coordinating and calling the shots with respect to 18 material financial issues on behalf of the whole 19 group.</p> <p>20 Q. Going to -- I'm going to talk about the 21 phone call analyses for a few minutes.</p> <p>22 A. You bet.</p> <p>23 Q. Or I'm going to ask you questions about 24 that. Where did you get the data for the phone call 25 analyses?</p>	<p style="text-align: right;">Page 116</p> <p>1 A. We did with -- we did it with respect to 2 the ones that we have in the report.</p> <p>3 Q. And not every one, I assume, or did you? 4 In other words, did you trace every one of these calls 5 back to the original data?</p> <p>6 A. I believe so.</p> <p>7 Q. Now, the phone data indicates a 8 connection between two phone lines, correct?</p> <p>9 A. Yes, that's my understanding.</p> <p>10 Q. You don't know who was actually on the 11 phone, correct?</p> <p>12 A. No.</p> <p>13 Q. You don't know what was said?</p> <p>14 A. No.</p> <p>15 Q. And you don't know, in fact, whether it 16 was a fax or a conversation, do you?</p> <p>17 A. My understanding it was a phone 18 conversation, but -- but I -- I can't verify that. My 19 understanding is that counsel will do the 20 authentication of this information.</p> <p>21 Q. But your assumption was that they were 22 all conversations?</p> <p>23 A. Yes. But if they were faxes, I would be 24 interested in those as well.</p> <p>25 Q. Now, on pages 39 through 44, you discuss</p>
<p style="text-align: right;">Page 115</p> <p>1 A. From counsel, from plaintiffs' counsel.</p> <p>2 Q. What did you do to validate that data?</p> <p>3 A. First of all, I was told that I could 4 rely on that data for its accuracy, and counsel was 5 prepared to prove the authenticity at the appropriate 6 time. But having said that, we actually took 7 spreadsheets of the phone calls and traced them down 8 to the original data, phone calls that were provided 9 by State Farm.</p> <p>10 Q. Who -- who did that?</p> <p>11 A. Carolyn Chaw would have done that.</p> <p>12 Q. And what -- what original data did she 13 audit -- or did she perform an audit of?</p> <p>14 A. Well, I have -- I have hard copies that 15 were sent from Mr. Thrash's office that purport to be 16 227 pages -- I think it's 227 pages of data that's not 17 really organized in any fashion or not readily -- it 18 is organized in some fashion, but that's the data that 19 we traced the phone numbers down into.</p> <p>20 Q. Okay. And how -- how --</p> <p>21 A. I said --</p> <p>22 Q. -- much of that?</p> <p>23 A. Excuse me. I said "phone numbers." I 24 meant phone calls.</p> <p>25 Q. How much of that was done?</p>	<p style="text-align: right;">Page 117</p> <p>1 that \$50,000 contribution to ATRA from State Farm that 2 you referenced earlier in your testimony.</p> <p>3 A. Okay.</p> <p>4 Q. And you conclude that the \$50,000 that 5 State Farm contributed to ATRA went to JUSTPAC?</p> <p>6 A. May I take a minute to read this?</p> <p>7 Q. Oh, yes. Sure.</p> <p>8 A. And your question again, please?</p> <p>9 MR. CLIFFORD: There is no question at 10 the moment.</p> <p>11 MR. SAFER: Yeah, there is.</p> <p>12 MR. CLIFFORD: Well, you said you 13 conclude, but there's not a reference to the document. 14 He asked a general question, I concede that, but not 15 in reference to the page of the material.</p> <p>16 MR. SAFER: Right.</p> <p>17 MR. CLIFFORD: Okay. He's looking for 18 the page you're talking about.</p> <p>19 MR. SAFER: Thank you.</p> <p>20 Q. (BY MR. SAFER) No, I'm saying, in 21 general, what you conclude is that the \$50,000 went to 22 JUSTPAC?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Did you analyze other expenditures 25 that ATRA made for special projects at the same time?</p>

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<p>1 A. No.</p> <p>2 Q. Were you provided with any documents</p> <p>3 reflecting other expenditures ATRA made to special</p> <p>4 projects at this same time?</p> <p>5 A. I recall seeing documents allocating the</p> <p>6 contribution from State Farm to special projects in</p> <p>7 various states, and so forth; but I haven't looked at</p> <p>8 that in a while.</p> <p>9 Q. Yeah. No, what I'm referring to is any</p> <p>10 other expenditures that ATRA made around this same</p> <p>11 time to the special project.</p> <p>12 A. No.</p> <p>13 Q. Were you shown any documents about</p> <p>14 Balance PAC?</p> <p>15 A. I don't recall that -- seeing anything</p> <p>16 like that.</p> <p>17 Q. Did you examine any evidence that State</p> <p>18 Farm was supporting ATRA's development of Balance PAC?</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you read Steve McManus's deposition</p> <p>21 about this \$50,000 contribution to ATRA that he</p> <p>22 approved?</p> <p>23 A. Hold on a second, please. This -- I</p> <p>24 don't remember Mr. McManus's testimony in that regard.</p> <p>25 Q. On page 44, you state, right before the</p>	<p>1 foundation, assumes facts not in evidence.</p> <p>2 A. I don't have any knowledge of the content</p> <p>3 of their conversation.</p> <p>4 Q. (BY MR. SAFER) Would you be interested</p> <p>5 in seeing what else ATRA was spending at this time</p> <p>6 with regard to special projects?</p> <p>7 MR. CLIFFORD: Objection, argumentative,</p> <p>8 assumes facts not in evidence.</p> <p>9 A. Sure.</p> <p>10 Q. (BY MR. SAFER) You used the term</p> <p>11 "earmarking" in your report, as we discussed earlier.</p> <p>12 What is your definition of "earmarking"?</p> <p>13 A. I would think that earmarking would</p> <p>14 connote a designation by the parties involved that</p> <p>15 specific funds be directed towards an agreed-upon</p> <p>16 objective.</p> <p>17 Q. And where does that definition come from?</p> <p>18 A. Here (indicating).</p> <p>19 Q. And where did it come from to get in</p> <p>20 there?</p> <p>21 A. Just common sense. I've never really</p> <p>22 bothered to -- I'm not aware of the legal implications</p> <p>23 of the term "earmark."</p> <p>24 Q. Now --</p> <p>25 A. I'm giving you my general -- I'm giving</p>
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<p>1 chart -- when you say, "His telephone calls to ATRA,"</p> <p>2 meaning Mr. McManus's telephone calls to --</p> <p>3 A. Okay. Excuse me. I don't see where</p> <p>4 you're at.</p> <p>5 Q. Okay.</p> <p>6 A. In the first paragraph there?</p> <p>7 Q. Yeah, first paragraph --</p> <p>8 A. On page 44.</p> <p>9 Q. -- next-to-last sentence.</p> <p>10 A. Yes, I'm with you. Thank you.</p> <p>11 Q. Sure. "His" -- and that refers to</p> <p>12 Mr. McManus --</p> <p>13 A. Right.</p> <p>14 Q. -- "telephone calls to ATRA during the</p> <p>15 concurrent time period underscores the complicity to</p> <p>16 transfer State Farm's \$50,000 to JUSTPAC." Do you see</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Now, you don't know what Mr. McManus and</p> <p>20 someone at ATRA talked about in these phone calls,</p> <p>21 correct?</p> <p>22 A. That's correct.</p> <p>23 Q. Is it possible that they were talking</p> <p>24 about the Balance PAC?</p> <p>25 MR. CLIFFORD: Objection, form,</p>	<p>1 you my general construance.</p> <p>2 Q. Sorry. Mr. Myers, you've worked on money</p> <p>3 laundering cases, right?</p> <p>4 A. Yes.</p> <p>5 Q. There is no evidence that State Farm was</p> <p>6 involved in money laundering in this case, correct?</p> <p>7 A. I disagree.</p> <p>8 Q. Money laundering involves the use of</p> <p>9 funds that have an illicit source, doesn't it?</p> <p>10 MR. CLIFFORD: Objection, form,</p> <p>11 foundation, calls for a legal opinion, assumes facts</p> <p>12 not in evidence -- well, strike that. Form,</p> <p>13 foundation, calls for a legal opinion.</p> <p>14 A. It does. And I'm not here to give a</p> <p>15 legal opinion, but 18 U.S.C. Section 1956 talks about</p> <p>16 the money coming from an unlawful purpose. I would</p> <p>17 talk about reverse money laundering. This is more</p> <p>18 indicative of reverse money laundering, which is</p> <p>19 typically used with respect to terrorist financing.</p> <p>20 Q. Well, you're not -- certainly you're not</p> <p>21 saying that State Farm has financed any terrorist</p> <p>22 organizations, right?</p> <p>23 A. No, but I would -- I would be -- I would</p> <p>24 not be uncomfortable with saying that the money was</p> <p>25 laundered through these various entities.</p>

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<p>1 Q. Not in the sense as used in 1956?</p> <p>2 MR. CLIFFORD: Objection.</p> <p>3 A. I have no opinion.</p> <p>4 MR. CLIFFORD: Foundation, argumentative.</p> <p>5 A. I have no opinion.</p> <p>6 MR. CLIFFORD: Calls for a legal opinion.</p> <p>7 THE DEPONENT: Sorry, Bob.</p> <p>8 A. I have no opinion on that.</p> <p>9 Q. (BY MR. SAFER) Is there any evidence</p> <p>10 that you saw that State Farm played a major role in</p> <p>11 selecting Justice Karameier as a candidate?</p> <p>12 A. Yes.</p> <p>13 Q. What is that?</p> <p>14 A. Because it's clear there's a -- a lengthy</p> <p>15 email from Ed Murnane of the ICJL to Judge Karameier --</p> <p>16 or Lloyd Karameier and his wife talking about the May 5</p> <p>17 -- 30 -- or the Madison County Coalition and all of</p> <p>18 the -- all the benefits and all the help and support</p> <p>19 that Karameier would get if he were to be selected as a</p> <p>20 judge.</p> <p>21 I construed that as a solicitation of the</p> <p>22 judge and a reaching out around the time of the</p> <p>23 Madison County Coalition and the \$1 million</p> <p>24 contribution from Ed Rust to the ILR. And my reason</p> <p>25 -- or my analysis takes into consideration and weights</p>	<p>1 Karameier's campaign?</p> <p>2 A. Yes.</p> <p>3 Q. What is that?</p> <p>4 A. Again, the extensive activities of</p> <p>5 Mr. Murnane through ICJL and coordinating many</p> <p>6 critical aspects of the coord -- of the -- the -- what</p> <p>7 I would refer to as an enterprise of affiliated</p> <p>8 organizations that I discuss thoroughly in my report.</p> <p>9 And I believe that Mr. Shepherd, through</p> <p>10 his association with the ICJL and Mr. Murnane, would</p> <p>11 have knowledge of these activities since this was</p> <p>12 professed by Mr. Murnane to be the primary activity of</p> <p>13 the ICJL during 2004. So I would assume that he would</p> <p>14 know that.</p> <p>15 Q. Is there any other evidence that you saw</p> <p>16 that State Farm played a major role in managing</p> <p>17 Justice Karameier's campaign?</p> <p>18 A. Well, I read with interest the deposition</p> <p>19 testimony of Mr. Tomaszewski, who was ostensibly the</p> <p>20 manager of Citizens For Karameier. And he acceded and</p> <p>21 seemed to admit under penalty of perjury that</p> <p>22 Mr. Murnane was calling the shots and that</p> <p>23 Mr. Luechtefeld and he were certainly -- if not under</p> <p>24 the direction and control of Mr. Murnane, certainly</p> <p>25 gave Mr. Murnane a wide berth in terms of what his</p>
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<p>1 heavily that William Shepherd was on the executive</p> <p>2 committee of ICJL. And there were actually hundreds</p> <p>3 of phone calls between William Shepherd and Ed Murnane</p> <p>4 around -- or during that time period, relevant time</p> <p>5 period. And, in fact, I think there was a 27-minute</p> <p>6 call.</p> <p>7 I don't reference it in my report, but</p> <p>8 it's hard for me to -- to believe that -- that William</p> <p>9 Shepherd, who is an attorney and agent for State Farm,</p> <p>10 wouldn't have been aware of -- of the activities of</p> <p>11 Mr. Murnane in selecting Karameier as a judge and --</p> <p>12 and all of the other -- what I would characterize as</p> <p>13 coordinating activities that are demonstrated in the</p> <p>14 record that -- that Mr. Murnane, and not the ICJL,</p> <p>15 undertook.</p> <p>16 Q. Is there any other evidence that you saw</p> <p>17 that State Farm played a major role in selecting</p> <p>18 Justice Karameier as a candidate?</p> <p>19 A. There may be. I'd have to refer to my</p> <p>20 report -- report.</p> <p>21 Q. Feel free.</p> <p>22 A. I don't think there's anything explicit</p> <p>23 on the record that -- there's nothing that I recall.</p> <p>24 Q. Is there any evidence that you saw that</p> <p>25 State Farm played a major role in managing Justice</p>	<p>1 wishes were in connection with the campaign</p> <p>2 management.</p> <p>3 MR. CANCELA: We've gotten a message on</p> <p>4 folks from the phone that they are having hearing you,</p> <p>5 Mr. Myers.</p> <p>6 THE DEPONENT: I'm sorry. I have a vocal</p> <p>7 cord issue. So I --</p> <p>8 MR. RIDDLE: Can we move phone a little</p> <p>9 closer? I don't know --</p> <p>10 MR. SAFER: You just --</p> <p>11 THE VIDEOGRAPHER: Do you want to go off</p> <p>12 the record, Counsel?</p> <p>13 MR. CLIFFORD: Yeah, let's go off the</p> <p>14 record just a minute.</p> <p>15 THE VIDEOGRAPHER: Going off the record.</p> <p>16 The time is 1:56.</p> <p>17 (Discussion off the record.)</p> <p>18 THE VIDEOGRAPHER: We are back on the</p> <p>19 record. The time is 1:59.</p> <p>20 Q. (BY MR. SAFER) Is there any other</p> <p>21 evidence that you saw that State Farm played a major</p> <p>22 role in managing Justice Karameier's campaign?</p> <p>23 MR. CLIFFORD: Objection, form,</p> <p>24 foundation, argumentative in terms.</p> <p>25 A. I'd like some clarification on how you</p>

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<p>1 define managing, because I think that's somewhat 2 ambiguous. Could you provide that for me, please?</p> <p>3 Q. (BY MR. SAFER) It's your word in your 4 report.</p> <p>5 A. Okay. Then I'll construe it the way that 6 I would -- I construe it that State Farm basically was 7 involved in and had knowledge of the Karameier campaign 8 through, among other things, the activities of ICJL, 9 which I assume that Mr. Murnane would have reported to 10 Mr. Shepherd. But also, as documented thoroughly 11 throughout my report, State Farm had extensive 12 involvement with all of these enterprise affiliated 13 organizations -- not all of them, but certainly with 14 -- with ATRA, the U.S. Chamber of Commerce, the 15 Illinois Chamber of Commerce. And there may be others 16 that, as I sit here, I don't recall. Oh, Civil 17 Justice Reform Group, of course, and the Illinois Jobs 18 Coalition. I think State Farm had representatives and 19 agents that were involved in all of these 20 organizations. And to the extent that they 21 deliberated with Mr. Murnane to coordinate 22 advertising, and things like that, State Farm would at 23 least have indirect control over management.</p> <p>24 Q. And is there any other evidence that you 25 -- that you believe supports the conclusion that State</p>	<p>1 Q. Okay. And do you know that there's 2 another study?</p> <p>3 A. I -- I understand that there -- State 4 Farm represents there is.</p> <p>5 Q. Have you seen it?</p> <p>6 A. I think that I have. I haven't read it, 7 though.</p> <p>8 Q. Does the fact that there is another study 9 that you've been supplied, but have not read, have any 10 significance to you?</p> <p>11 A. I think it's -- it has significance 12 because my understanding is that State Farm contends 13 or William Shepherd contends that he never got the -- 14 the -- the Sequoyah report that dealt with criminal 15 issues and -- and Judge Maag, Lloyd Karameier's 16 opponent.</p> <p>17 Q. Yeah, I --</p> <p>18 A. So it's significant in that context.</p> <p>19 Q. I think the -- well, are you aware of the 20 testimony by Bill Shepherd that the only Sequoyah 21 study that was in his files was the civil study?</p> <p>22 A. Yes, I'm aware of that.</p> <p>23 Q. Does that have any significance to you?</p> <p>24 A. Well, certainly it has significance 25 because I try to weigh all of the evidence and I look</p>
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<p>1 Farm played a major role in managing Justice 2 Karameier's campaign?</p> <p>3 A. Yeah. I think I need to clarify, though, 4 I'm not proposing that they actively directed traffic 5 on behalf of the campaign. I simply say that they 6 acquiesced and their approval was important in the 7 management of the -- of the campaign which, based on 8 my analysis, was heavily controlled by Mr. Murnane.</p> <p>9 Q. So what evidence is there that State Farm 10 acquiesced in -- as you use that word -- in the 11 management of Justice Karameier's campaign?</p> <p>12 A. Well, if they knew what was going on 13 through William Shepherd, they didn't object to 14 anything. And they -- their silence was -- was loud.</p> <p>15 Q. Okay. You referred to, in your report, a 16 study of judicial decisions performed by Sequoyah.</p> <p>17 A. Yes.</p> <p>18 Q. And that that partially paid for by State 19 Farm.</p> <p>20 A. Yes, sir.</p> <p>21 Q. Okay. Do you know what that study 22 entailed?</p> <p>23 A. Yes.</p> <p>24 Q. Did -- have you read that study?</p> <p>25 A. I read the criminal one.</p>	<p>1 at the different pieces of information and put them 2 into perspective. But I also know that Mr. Murnane 3 sent an email to him which referred to the criminal 4 study, and it was sent to Mr. Shepherd. And I know 5 that the -- based on the testimony of Mr. Pintak and 6 -- and others that that Gordon Maag material played a 7 key role with respect to the ads that were promulgated 8 through the ILR and the Illinois Jobs Coalition and 9 others.</p> <p>10 So -- so -- so I find it hard to believe, 11 but you're certainly welcome to your opinion. I mean, 12 Mr. Shepherd can testify that he never saw that, but I 13 think that stretches the bounds of credibility; but 14 let the trier of fact decide that.</p> <p>15 Q. Well, the question is how do you know 16 that what State Farm paid part of was the criminal 17 study as opposed to the civil study?</p> <p>18 A. Oh. I have seen no explicit written -- 19 evidence either way.</p> <p>20 Q. Now, let me ask you a couple of questions 21 with regard to the damages thing. Do you have a -- an 22 opinion on whether or not an equal share to all class 23 members best accounts for the economic harm suffered?</p> <p>24 A. No.</p> <p>25 Q. Are you aware of how the 1.05-and --</p>

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<p style="text-align: right;">Page 130</p> <p>1 and-more-billion-dollar judgment amount and its 2 component parts, in particular, the \$212.44 million 3 installation damages, were determined? 4 A. Well -- 5 MR. CLIFFORD: Excuse me, Counsel, 6 objection, form, foundation. Context -- are we 7 talking about the underlying case here? 8 MR. SAFER: Yeah. 9 MR. COSGROVE: Not the jury decision? 10 MR. CLIFFORD: No, no. 11 MR. SAFER: Yeah. 12 MR. CLIFFORD: You're talking about the 13 Avery case, how it was determined in the Avery case. 14 MR. SAFER: Yes, yes. 15 A. Again, please, the question? 16 Q. (BY MR. SAFER) So -- so I can -- 17 MR. CLIFFORD: She can read it, if you'd 18 like. 19 MR. SAFER: Okay. But I've got it 20 written down -- 21 THE DEPONENT: All right. 22 MR. SAFER: -- so I can do it -- 23 THE DEPONENT: Enjoy. 24 MR. SAFER: -- to save time. 25 Q. (BY MR. SAFER) Are you aware of how the</p>	<p style="text-align: right;">Page 132</p> <p>1 MR. SAFER: I shouldn't say "accurate," 2 because that's wrong. Right. 3 Q. (BY MR. SAFER) So are -- you're -- 4 you're not opining as to whether the underlying 5 damages were -- you know, are fair, appropriate -- 6 you're just doing the math? 7 A. I was asked to assume the -- the -- that 8 those numbers are the correct numbers and told that 9 counsel would be prepared to prove that at the 10 appropriate -- authenticate the -- that at the -- at 11 the appropriate time. 12 Q. Do you have an opinion on the economic 13 validity of using 9 percent simple interest for 14 calculating present value? 15 A. No. 16 Q. Have you used 9 percent simple interest 17 in previous analysis of economic damages? 18 MR. CLIFFORD: Go ahead. 19 A. No. 20 Q. (BY MR. SAFER) Have you used interest 21 close to 9 percent? 22 A. I don't recall doing an economic damage 23 analysis the way that this one was performed. This 24 was done -- I was asked to assume the authenticity of 25 the numbers.</p>
<p style="text-align: right;">Page 131</p> <p>1 \$1.05 billion judgment amount and its component parts, 2 in particular, the \$212.44 million installation 3 damages, were determined? 4 A. No. 5 Q. Have you performed any analysis on 6 whether or not all Hale plaintiffs suffered 7 installation damages? 8 A. No. I simply -- that exercise, as I 9 testified in my previous deposition, was done at the 10 request of counsel where I was instructed to use the 11 amount that -- my understanding is from the appeals 12 court after remitter, and that's the amount that I 13 used. And I did no analysis independent -- 14 independent analysis. I simply did the arithmetic 15 calculation 9 percent interest for the days involved 16 in the period. 17 Q. (BY MR. SAFER) So you're -- you're 18 offering no opinion of whether that's fair or accurate 19 or -- you're just doing the math? 20 MR. CLIFFORD: That -- just -- objection. 21 Clarification. 22 MR. SAFER: Well -- 23 MR. CLIFFORD: "That" being the under -- 24 MR. SAFER: I shouldn't say -- 25 MR. CLIFFORD: -- lying analysis?</p>	<p style="text-align: right;">Page 133</p> <p>1 MR. CLIFFORD: And I have to move to 2 strike the answer and move to strike the question. 3 With all due respect, Counsel possibly misspoke. 4 There's no record, no evidence that Mr. Myers used a 5 9 percent calculation to present value. The record is 6 clear that he used the 9 percent in the terms that he 7 described in his report, which does not state that. 8 That's all. 9 THE DEPONENT: I missed that. 10 MR. CLIFFORD: I'm not trying -- 11 MR. SAFER: Wait, wait. We've got the 12 gist of what's going on. 13 THE DEPONENT: Can I have my answer or 14 the question -- 15 MR. CLIFFORD: It's okay. The record is 16 clear. We're all right. 17 A. It was a simple interest calculation. 18 Q. (BY MR. SAFER) Right. 19 A. Yeah. 20 Q. And do you have an opinion as to whether 21 simple interest should be used to calculate economic 22 damages? 23 A. No. 24 Q. Okay. Just a question about your report. 25 In Appendix C, you have --</p>

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<p>1 A. Is there a page number on that?</p> <p>2 Q. Oh, 106.</p> <p>3 A. Okay. I'm with you.</p> <p>4 Q. Okay. So it says, "Documents produced</p> <p>5 and relied upon for my report." That means -- I'm</p> <p>6 sure means relied upon for my report, right?</p> <p>7 A. It doesn't say. It says Documents</p> <p>8 Produced.</p> <p>9 Q. No -- I'm sorry, but then down -- down in</p> <p>10 the middle of the page.</p> <p>11 A. Oh, I'm -- okay. I'm with you. Yes,</p> <p>12 that's what it says.</p> <p>13 Q. Okay. And -- and you mean there that</p> <p>14 these are relied upon for your report --</p> <p>15 A. Yes.</p> <p>16 Q. -- correct? Are there other documents</p> <p>17 that you reviewed in the case that you didn't rely on?</p> <p>18 A. You know, I'm sure there were, but</p> <p>19 nothing comes to mind as I sit here. I mean, I looked</p> <p>20 at tons of studies and data, and so forth, that I</p> <p>21 examined independently from the database that was</p> <p>22 provided in this case; but I couldn't tell you what</p> <p>23 that would be.</p> <p>24 Q. Did you keep a record of the documents</p> <p>25 that you -- that you considered in this case?</p>	<p>1 Supreme Court decided --</p> <p>2 MR. CLIFFORD: Illinois?</p> <p>3 THE DEPONENT:</p> <p>4 A. I'm sorry. Forgive me. Mississippi</p> <p>5 Supreme Court decided was beyond my -- although they</p> <p>6 acknowledge that I was an expert in banking matters.</p> <p>7 Q. (BY MR. SAFER) And any other such cases</p> <p>8 that you recall?</p> <p>9 A. I don't remember exactly, but . . .</p> <p>10 Q. Your report is your complete statement of</p> <p>11 opinions as of this date?</p> <p>12 MR. CLIFFORD: Objection. Go ahead. I'm</p> <p>13 sorry.</p> <p>14 MR. SAFER: Yeah, let me -- let me --</p> <p>15 Q. (BY MR. SAFER) The report is the</p> <p>16 complete statement of opinions that you currently</p> <p>17 intend to give at trial in this case?</p> <p>18 MR. CLIFFORD: Objection to the form of</p> <p>19 the question. It calls for an incomplete</p> <p>20 hypothetical. He has given two depositions now, and</p> <p>21 one could fairly state that there are logical</p> <p>22 corollaries associated with that testimony and</p> <p>23 reports.</p> <p>24 A. I would slightly disagree with you. I</p> <p>25 would say that this was the status of my opinion at</p>
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<p>1 A. No. I gave you everything that I have</p> <p>2 relied on.</p> <p>3 Q. And you don't know, as you sit here, what</p> <p>4 you considered, and you don't have a record of that?</p> <p>5 A. That's a large universe.</p> <p>6 Q. But it -- right. Do you have a record of</p> <p>7 that?</p> <p>8 A. No.</p> <p>9 Q. Okay. Have you ever been excluded as an</p> <p>10 expert in any case?</p> <p>11 A. No.</p> <p>12 Q. Have -- have your opinions in any way</p> <p>13 ever been limited in any case?</p> <p>14 A. There have been a couple of cases where</p> <p>15 the -- my opinion was submitted with a motion -- or</p> <p>16 for summary judgment, and the judge decided that --</p> <p>17 that he didn't need my legal advice. So there's been</p> <p>18 -- there's been several cases like that over the last</p> <p>19 three decades or so.</p> <p>20 Q. Okay. Do you recall the names of those</p> <p>21 cases?</p> <p>22 A. I know that one of them is Menola Baymon</p> <p>23 versus GMAC where the Mississippi Supreme Court, as I</p> <p>24 understand it, challenged the judge for allowing me to</p> <p>25 talk about an insurance matter that the Illinois</p>	<p>1 this time as expounded on and clarified and elaborated</p> <p>2 upon in your discussion today.</p> <p>3 Having said that, my analysis is ongoing,</p> <p>4 though. And I intend to inform myself regarding</p> <p>5 issues related to the case up until the day of trial,</p> <p>6 should that occur.</p> <p>7 Q. Do you have any supplement to your report</p> <p>8 that you want to make now?</p> <p>9 A. No.</p> <p>10 MR. SAFER: All right. If we can have</p> <p>11 two minutes, we may be done.</p> <p>12 THE VIDEOGRAPHER: Going off the record.</p> <p>13 The time is 2:15.</p> <p>14 (Recess taken, 2:15 p.m. to 2:25 p.m.)</p> <p>15 THE VIDEOGRAPHER: We're back on the</p> <p>16 record. The time is 2:25.</p> <p>17 MR. SAFER: I have no further questions.</p> <p>18 Thank you, Mr. Myers.</p> <p>19 THE DEPONENT: Thank you, sir.</p> <p>20 MR. CLIFFORD: Megha, do you have any</p> <p>21 questions?</p> <p>22 MS. SHAH: No.</p> <p>23 MR. CLIFFORD: Andrew, do you have any</p> <p>24 questions? Andrew Chinsky? Hearing none, we're going</p> <p>25 to assume no.</p>

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<p>1 EXAMINATION</p> <p>2 BY MR. CLIFFORD:</p> <p>3 Q. Mr. Myers, I want to ask you just briefly</p> <p>4 a couple matters -- or a few matters, rather. Taking</p> <p>5 you back to the discussion you had with counsel about</p> <p>6 the supervisory order in the Price versus Philip</p> <p>7 Morris case, I believe that was Exhibit No. 12 --</p> <p>8 A. Yes.</p> <p>9 Q. -- and then also in concert with Exhibit</p> <p>10 No. 13, which was the memorandum in that case, the</p> <p>11 Price case, by counsel for the plaintiffs --</p> <p>12 A. Okay.</p> <p>13 Q. -- are you aware -- here's my question:</p> <p>14 Are you aware of any efforts in the instant</p> <p>15 litigation, the Hale litigation, or aware of any</p> <p>16 materials acquired from those efforts that State Farm</p> <p>17 made to run down, if you will, or try to subpoena and</p> <p>18 gather information from either the U.S. Chamber or</p> <p>19 ATRA about the claims that the Price plaintiffs were</p> <p>20 making about the source of money that went to citizens</p> <p>21 for Karmeier from Philip Morris?</p> <p>22 A. No.</p> <p>23 Q. So that when we had ar -- claims being</p> <p>24 made by counsel for the plaintiffs in that Price case</p> <p>25 that Philip Morris was the source of the funds, you</p>	<p>1 Q. Yes. My question is -- strike any</p> <p>2 pending question. My question is are you aware that</p> <p>3 Justice Karmeier wrote that there was no factual</p> <p>4 subpoena for the claim of the source of the funds</p> <p>5 being from Philip Morris?</p> <p>6 A. I am.</p> <p>7 Q. New subject. We're done with -- counsel</p> <p>8 asked you about a PAC called Balance PAC. Do you</p> <p>9 remember that line of discussion?</p> <p>10 A. Yes.</p> <p>11 Q. It was in reference to the deposition of</p> <p>12 Mr. McManus?</p> <p>13 A. Yes.</p> <p>14 Q. Are you aware, from your review of the</p> <p>15 Citizens For Karmeier D-2s, the disclosure forms from</p> <p>16 the Illinois State Board of Elections, that Balance</p> <p>17 PAC made one or more in-kind contributions to the</p> <p>18 Citizen For Karmeier?</p> <p>19 A. I didn't note that.</p> <p>20 MR. CLIFFORD: Thank you. I have no</p> <p>21 further questions.</p> <p>22 THE DEPONENT: Thank you.</p> <p>23 MR. SAFER: We have nothing further.</p> <p>24 THE VIDEOGRAPHER: This is the end --</p> <p>25 this is the end of Video 2 of 2 of the deposition of</p>
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<p>1 can't have two sources of the same funds; do you</p> <p>2 remember that discussion?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Okay. Are you aware of any effort that</p> <p>5 was made by State Farm to establish the veracity of</p> <p>6 the allegations that Philip Morris was the source of</p> <p>7 those funds?</p> <p>8 A. No.</p> <p>9 Q. And related to that, are you aware, from</p> <p>10 the actual supervisory order itself that Justice</p> <p>11 Karmeier wrote -- please look at page 8 --</p> <p>12 A. What exhibit number is that, please?</p> <p>13 Q. That will be Exhibit No. 12, sir. Look</p> <p>14 at page 8.</p> <p>15 A. I'm with you.</p> <p>16 Q. At the top of the page, the last sentence</p> <p>17 of the paragraph that Justice Karmeier wrote, "As</p> <p>18 movant points out" --</p> <p>19 A. I'm sorry. I'm not with you. This is</p> <p>20 page 8?</p> <p>21 Q. Yes, sir, of the report -- of the</p> <p>22 document, of Exhibit 12.</p> <p>23 A. Exhibit 12? Show me where you're at.</p> <p>24 Q. Page 8, first paragraph.</p> <p>25 A. Again, please. I'm sorry.</p>	<p>1 Thomas Myers, CPA. Going off are the record. The</p> <p>2 time is 2:30.</p> <p>3 WHEREUPON, the within proceedings were</p> <p>4 concluded at the approximate hour of 2:30 p.m. on the</p> <p>5 19th day of October, 2017.</p> <p>6 * * * * *</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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I, THOMAS A. MYERS, CPA, do hereby
 certify that I have read the above and foregoing
 deposition and that the same is a true and accurate
 transcription of my testimony, except for attached
 amendments, if any.

Amendments attached () Yes () No

 THOMAS A. MYERS, CPA

The signature above of THOMAS A. MYERS,
 CPA, was subscribed and sworn to before me in the
 county of _____, state of
 _____, this _____ day of
 _____, 2017.

 Notary Public
 My commission expires

Mark Hale 10/19/17 (tc)

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REPORTER'S CERTIFICATE
 STATE OF COLORADO)
) ss.

CITY AND COUNTY OF DENVER)

I, TERESA COOGLE, Registered Professional
 Reporter, Certified Realtime Reporter, and Notary
 Public ID 19994013288, State of Colorado, do hereby
 certify that previous to the commencement of the
 examination, the said THOMAS A. MYERS, CPA, was duly
 sworn by me to testify to the truth in relation to the
 matters in controversy between the parties hereto;
 that the said deposition was taken in machine
 shorthand by me at the time and place aforesaid and
 was thereafter reduced to typewritten form; that the
 foregoing is a true transcript of the questions asked,
 testimony given, and proceedings had.

I further certify that I am not employed by,
 related to, nor counsel for any of the parties herein,
 nor otherwise interested in the outcome of this
 litigation.

IN WITNESS WHEREOF, I have affixed my
 signature this 24th day of October, 2017.

My commission expires May 24, 2019.

☒ Reading and Signing was requested.
☐ Reading and Signing was waived.
☐ Reading and Signing was not required.

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STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

Teresa Coogle
Teresa Coogle
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Registered Professional Reporter